

31.01.2023
Sl. No.540(ML)
srm

W.P.A. No. 9363 of 2022

Jhantu Shit & Ors.

Versus

The State of West Bengal & Ors.

Mr. Amit Baran Dash,
Mr. Jayanta Dey

....for the Petitioners.

Mr. Gausul Alam,
Md. Yusuf Ali

...for the State-respondents.

Affidavit-of-service is taken on record.

The petitioners allege that the authorities of the Sundarpur Gram Panchayat, District-Paschim Medinipur had sunk a tube-well on LR Dag No.449 corresponding to RS Dag No.392, JL No.149 pertaining to Khatian No.548 of mouza Sundarpar, District-Paschim Medinipur, without any permission from the petitioners and without acquiring the said land.

It appears from the records that there is a factual dispute with regard to the identity of the land and right, title and interest of the petitioners in the land on which the deep tube well has been sunk.

The Revenue Inspector submitted a report before the Block Land and Land Reforms Officer, Sabang after

conducting a field enquiry. From the report, it appears that although LR Plot No.449 had been purchased by the petitioners, but they were actually possessing the LR Plot No.394 by constructing a dwelling house. The Revenue Inspector further opined that the petitioners did not have any interest over the Plot No.394 which they were possessing. The said petitioners had purchased LR Plot No.449 corresponding to RS Plot No.392. Several plots being LR Plot Nos.393, 394, 449, 450 and 451 had been created from the RS Plot No.392 at the K.B. stage. However, Plot No.394 vested to the State of West Bengal and no *patta* had been issued over the said plot.

The petitioners claimed before the concerned Revenue Inspector during the field enquiry that their purchased area had not been properly demarcated by the erstwhile vendor and the erstwhile vendor had identified LR Plot No.394 as LR Plot No.449. The petitioners could not produce any further documents with regard to their said possession.

The report filed before the Block Land and Land Reforms Officer, Sabang, by the Revenue Inspector indicates that the petitioners do not have any right, title and interest over the plot of land on which the tube-well

had been installed by the panchayat authorities for the benefit of the villagers.

For the disposal of the writ petition, the aforementioned finding is sufficient. If the petitioners assert their title in respect of the said land in question, the petitioners must approach the learned civil court.

The Revenue Inspector has found that the petitioners were actually occupying LR Plot No.394 on the mistaken belief that the same was Plot No.449 and the report records that the petitioners submitted before the authority that their vendor did not demarcate Plot No.449. The petitioners were possessing Plot No.394 since long, out of ignorance. Such factual finding of the Revenue Inspector upon field enquiry in the presence of the parties and submission of the petitioners which has been recorded in the enquiry report, give rise to a disputed question of fact and as such, the writ Court cannot pass orders directing the panchayat authorities to remove the tube-well from plot No.394, which was installed for the benefit of the public. It appears from the report that the tube-well was not installed on the purchased land of the petitioners. The assertion of the petitioners that the tube-well had been installed on plot No.449 and not on plot No.394, must be decided by the civil court. Proper demarcation and

identification of the land can be made only by leading evidence in a suit.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)