

May 15, 2023
(19 to 28) ARDR

WPA 9897 of 2023

Ma Sarbamangala Quality Sand
Vs.
The State of West Bengal & Ors.

With

WPA 9901 of 2023

Ma Sarbamangala Quality Sand
Vs.
The State of West Bengal & Ors.

With

WPA 9977 of 2023

Goutam Pal
Vs.
The State of West Bengal & Ors.

With

WPA 9978 of 2023

Jiban Krishna Pan
Vs.
The State of West Bengal & Ors.

With

WPA 9981 of 2023

Manik Chandra Mandal
Vs.
The State of West Bengal & Ors.

With

WPA 9982 of 2023

Paban Pan
Vs.
The State of West Bengal & Ors.

With

WPA 9983 of 2023

Lalan Barman
Vs.
The State of West Bengal & Ors.

With

WPA 10021 of 2023

Sunil Das
Vs.
The State of West Bengal & Ors.

With

WPA 10024 of 2023

Buddhadev Mondal
Vs.
The State of West Bengal & Ors.

With

WPA 10029 of 2023

MPB Trading House Pvt. Ltd.
Vs.
The State of West Bengal & Ors.

Adv. Kallol Basu,
Adv. Suman Banerjee,
...for the petitioners.

Adv. Sabyasachi Chatterjee,
Adv. Dinesh Chandra Mondal,
Adv. Debabrata Mondal,
...for the respondent no.6.

Adv. Mir Anowar,
...for the respondent no.5.

Adv. Chandi Charan De,
Adv. Chandana Ghosh,
...for the State in WPA 9897/23.

Adv. Sirsanya Bandyopadhyay,
Adv. Arka Kumar Nag,
...for the State in WPA 9901/23.

Adv. Soumitra Bandyopadhyay,
Adv. Subhasis Bandyopadhyay,
...for the State in WPA 9977/23.

Adv. Lalit Mohan Mahata,
Adv. Supratim Dhar,
...for the State in WPA 9978/23.

Adv. Soumitra Bandyopadhyay,
Adv. Priyabrata Batabyal,
...for the State in WPA 9981/23.

Adv. Chandi Charan De,
Adv. Anirban Sarkar,

...for the State in WPA 9982/23.
 Adv. Susovan Sengupta,
 Adv. Subir Pal,
 ...for the State in WPA 9983/23.
 Adv. Soumitra Bandyopadhyay,
 Adv. Subhasis Bandyopadhyay,
 ...for the State in WPA 10024/23.
 Adv. Santanu Kumar Mitra,
 Adv. Subhabrata Das,
 ...for the State in WPA 10029/23.

Affidavits of service filed by the petitioners are taken on record.

Since common questions of law and facts are involved in all the writ petitions, they are taken up for consideration and are disposed of by a common order.

Heard learned counsels for the parties.

The writ petitioners have prayed for review/modification of the orders passed in WPA 27833 of 2022 and WPA 28300 of 2022 and submitted that the said orders be restricted to the auction I.Ds of private respondent nos. 5 and 6 and not beyond.

It is submitted on behalf of the petitioners that the notice of e-auction challenged in the writ petitions filed by the private respondents pertains to 73 plots/auction I.Ds out of which the private respondents are concerned with two I.Ds being 2022-WB 2074 and 2022-WB2665 respectively. The writ petitioners being the highest bidders in the auction floated by the authority, are holders of the remaining auction I.Ds and have prayed for exclusion of the said I.Ds from the orders passed in the earlier writ

petitions since these petitioners were not impleaded as parties therein.

Learned counsel further submits that Rule 25 (6) of the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021 entitles the authority to confiscate and auction the properties seized under the rules.

Finally, learned counsel has submitted that an order passed by this Court earlier can be reviewed/modified in a subsequent writ petition to prevent miscarriage of justice or to correct grave and palpable error committed by it. Learned counsel has placed reliance on the authority in ***Shivdeo Singh & ors. vs. State of Punjab & ors.*** reported in ***AIR 1962 SC 1909*** and ***Srimanta Kumar Mondal & ors. vs. The State of West Bengal & Ors.*** reported in ***1998 SCC OnLine Cal 202*** in support of his contention.

Raising vehement objection to the prayer of the petitioners, learned counsels for the private respondents submit that since the notification for auction of excess sand has been challenged as a whole in the writ petitions, modification of orders passed therein shall prejudicially affect the petitioners of the earlier writ petitions since such modification would entitle the authority to auction the surplus sand confiscated from the lessees.

Learned counsels for the private respondents seek consideration of these matters along with the earlier writ

petitions on the ground that any order passed herein shall affect their interest in the earlier petitions.

Learned counsels for the State respondents make their submission in support of the submission made on behalf of the petitioners.

I have heard the learned counsels for the parties and considered the material on record including the law on the point.

The notification/corrigendum regarding e-auction of excess/unauthorised stock of sand dated 8th December, 2022 is under challenge in the earlier writ petitions. Earlier writ petitions filed by the private respondents pertain to auction I.Ds 2022-WB2074 and 2022-WB 2665 and not all the 73 I.Ds included in the notification under challenge. By the orders passed in the earlier writ petitions on December 21, 2022, this Court granted an interim order in favour of the private respondents (writ petitioners therein) staying operation of the notice of auction dated 8th December, 2022. The said notice covers 73 plots of land/auction I.Ds and not only that of the private respondents. The private respondents being writ petitioners in the earlier writ petitions were entitled to relief only insofar as their auction I.Ds were concerned and not in respect of entire 73 plots/I.Ds. The blanket orders passed in the earlier writ petitions touching upon all the 73 plots/I.Ds are required to be modified to the extent that the said interim orders

shall pertain to the plots/I.Ds. of the private respondents and no further.

The Hon'ble Supreme Court, in the authority in **Shivdeo Singh & ors.** (supra) has observed that there is nothing in Article 226 of the Constitution of India to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. Same principle has been followed in the authority in **Srimanta Kumar Mondal & ors.** (supra).

Also, since the earlier writ petitions pertain to the I.Ds of the private respondents herein whereas the present writ petitions deal with the I.Ds of the petitioners herein, any order passed herein shall not have any impact on the merits of the earlier petitions though all the I.Ds are covered by the notification impugned.

In view of the above, this Court is inclined to hold that since the earlier writ petitions pertain to the plots/I.Ds of the private respondents (writ petitioners therein) the interim order granted in favour of the private respondents ought to have been restricted to the plots/I.Ds of the private respondents and not the entire 73 plots/I.Ds.

The orders dated December 21, 2022 passed in WPA 27833 of 2022 and WPA 28300 of 2022 are modified to the extent that the notice of auction dated 8th December, 2022 insofar as the petitioners therein/private respondents in

these writ petitions are concerned, bearing auction I.D. Nos. 2022-WB2074 and 2022-WB2665 respectively be stayed until further orders.

This order shall not preclude the private respondents from raising the issues which are already part of the earlier writ petitions when the said writ petitions are taken up for consideration.

With the aforesaid directions, the writ petitions are disposed of.

There shall however, be no order as to costs.

Since no affidavits in opposition is invited, the allegations contained in the writ petitions are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)