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05.10.2023
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W.P.A. 12243 of 2023
(Enamul Hoque & Ors. vs. State of West Bengal & Ors.)

Mr. Golam Mostafa
Mr. Tarasankar Samanta
.... For the Petitioners
Mr. Soumitra Bandyopadhyay
Mr. Srinath Singha Roy
.... For the State
Mr. Robiul Islam
Mr. Raju Mondal
Sk. Jayed Hossain
.... For the Private Respondents

Heard learned counsels for the parties.

The petitioners have sought removal of the private respondents from the plots in question on the ground that the private respondents are encroachers on the said plots which belong to the Government.

It is submitted on behalf of the private respondents that a partition suit being No. 47 of 2018 filed by the private respondents against the present petitioners in respect of the self same plots as in the present writ petition seeking declaration of the title of the private respondents and partition of the plots is pending before the learned civil Judge, Senior Division, Berhampur.

The petitioners claim that the plots have been acquired by the State whereas the private respondents urge that they are co-sharers of the plots in question, the plots

being raiyati land. The dispute between the petitioners and the private respondents is purely civil in nature and it is for the civil Court to adjudicate whether the private respondents have acquired title in respect of the plots, as claimed by them.

The private respondents cannot be termed as encroachers therein until the title suit is disposed of on merits by the civil Court and the status of the private respondents in respect of the plots in question is decided.

In view of the above, this Court is inclined to hold that the writ petition claiming the removal of the private respondents from the plots in question on the ground that they are encroachers therein is premature and is liable to be dismissed.

Accordingly, the writ petition being W.P.A. 12243 of 2023 is dismissed.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)