

16.08.2023

Item No.1

Ct. No.1

PG/KS

W.P.A. 10769 of 2015

With

IA No. CAN 1 of 2022

Sri Asit Hazra & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Saptanshu Basu

Mr. Avijit Sarkar

Mr. Tarun Kanti Ghosh

.....for the Petitioners

Mr. Tapan Kumar Mukherjee

Mr. Somnath Naskar

.....for the State

Mr. Joyjit Roy Chowdhury

Mr. Shuvajit Bose

.....for the respondent nos.14 & 15

1. By this public interest litigation, the petitioners seek for preventing a water body, a land classified as 'Pukur' in the revenue records comprised in Plot No.230 from being filled up by the adjacent plot owners namely, the owners of the plot no.231, who are the private respondent nos.14 and 15 in the writ petition.
2. Pursuant to an order passed in W.P. No.10769 (W) of 2015 dated 1st July, 2016, a physical enquiry was conducted by the Officer-in-Charge, Town Survey Unit, Howrah and a report dated 12th August, 2016 has been filed. It is seen from the report that Plot No.230 as per the mouza map

is a water body and as per record, the classification is 'Pukur'. On enquiry, the Officer-in-Charge of the Town Survey Unit, Howrah would state that as on date, the water body is mostly filled up and is slowly vanishing. The private respondent, who was also heard during the enquiry conducted by the Officer-in-Charge, Town Survey Unit, Howrah asserted that he is in no way involved in the development of the Plot No.230 and he is the owner of Plot No.231 and he has also produced the municipal mutation certificate, building plan and the municipal demand register to establish his contention.

3. In the report it is further stated that the mutation certificate issued by the Land & Land Reforms Department through the office of the Additional Town Survey Unit, Howrah dated 22nd July, 2011 shows that Government mutation was allowed in 0.0090 acres of land in Plot No.230 along with 0.0199 acres of land in Plot No.231 in the name of the private respondent nos.14 and 15. Further the report states that the Government mutation was allowed in 0.0090 acres of land in Plot No.230 along with 0.0199 acres of land in Plot No.231 in the name of Manika Pal and according to the officer, this information was suppressed by Sri Samiran Pal. One Smt. Gayatri Biswas,

during the course of enquiry asserted that she is the owner of Plot No.230 vide Deed of Conveyance in the year 2013 and the physical state of the said plot remained same as it is till date. However, it is stated in the report that the fact that mutation certificate issued by the Land & Land Reforms Department through the office of the Additional Town Survey Unit, Howrah dated 25th September, 2013 shows that the Government mutation was allowed in 0.0546 acres in Plot No.230 in the name of Smt. Gayatri Biswas and vide Case No.M/3/13 dated 25th September, 2013 shows that Government mutation was allowed in 0.0318 acres in Plot No.229; 0.0320 acres in Plot No.230 and 0.187 acres in Plot No.231 in the name of Debasish Biswas. According to the officer, this information has been suppressed by Smt. Gayatri Biswas and Debasish Biswas.

4. One Sanjib Sen, who also participated in the enquiry asserted that Plot No.231 was transferred by Deed of Conveyance in the name of the 14th respondent, Samiran Pal during 2010 and Plot No.230 was transferred by Deed of Conveyance in the name of Smt. Gayatri Biswas sometime during the year 2013 and that he is in no way

involved and interested in respect of developments in the said plots.

5. As long as the land comprised in Plot No.230 remains classified as a 'water body', no construction can be put up on the said plot nor the physical features can be altered. However, from the report it is seen that Plot No.231 is not a water body and the Government mutation shows that the respondent nos.14 and 15 are the owners of the said plot. The apprehension of the petitioners is that under the guise of putting up construction in Plot No.231, there is every likelihood of Plot No.230, water body being filled up and its characteristics being completely obliterated. Therefore, the petitioners' case is that Plot No.230 should be preserved as a water body and should not be filled up by any person much less the respondent nos.14 and 15 or the persons in whose names the Deed of Conveyance had been registered in respect of Plot No.230. In order to ensure that no part of Plot No.230 is either encroached or filled up, the following directions are issued.
6. There will be a direction to the Officer-in-Charge, Town Survey Unit, Howrah to issue notice to the writ petitioners as well as the respondent nos.14 and 15 and in their presence Plot No.231 shall be

measured on the basis of the mouza map and the boundaries be demarcated and after the boundaries are demarcated, the respondent nos.14 and 15 shall put up the boundary wall strictly in accordance with the boundary line fixed by the Officer-in-Charge, Town Survey Unit, Howrah and after the boundary wall is put up, an inspection should be conducted by the said Officer-in-Charge of the Town Survey Unit, Howrah and upon satisfaction that the wall has been rightly put up, the respondent nos.14 and 15 would be entitled to enjoy the property in their own right.

7. The Officer-in-Charge, Town Survey Unit, Howrah shall also ensure that Plot No.230 is not converted to any other purpose and shall be retained as a water body. The authorities can also issue directions to the persons in whose names, the property is being registered namely the respondent nos.16 and 17 to ensure that the debri, which has been dumped in Plot No.230 is removed and the property be retained as a water body.
8. It is made clear that when the Officer-in-Charge, Town Survey Unit, Howrah undertakes exercise of identifying the correct extent of Plot No.231, it would be necessary that Plot No.230 is also

measured on the basis of the mouza map for which notice should be issued to the respondent nos.16 and 17.

9. With the above observations/directions, the writ petition and the connected application stand disposed of.
10. No costs.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)