

02.08.2023
Item No.07
RP/AN
Ct. No.1

MAT 1149 of 2023
+
IA No.CAN 1 of 2023
Bappa Ali Sarkar
VS.
State of West Bengal & Ors.

Mr. Partha Chakraborty
Ms. Paulomi Dutta
... for Appellant

Ms. Mousumi Chowdhury
Mr. Parikshit Goswami
... for State/respondent

Mr. Ramkrishna Bhattacharyya
Mr. Kaushik Chowdhury
Ms. Bushra Khatun
Mr. Gour Hari Das
... for the Respondent No.3, 4 and 5

1. The case of the appellant is that there is police inaction and also that the third respondent, namely, the Inspector-in-Charge, Tapan Police Station, colluding with the private respondent preventing the appellant from carrying on Pisciculture operation in the land in question, which is a pukur (pond). The private respondents have also lodged a complaint against the petitioner and it is submitted that charge sheet has been laid after completion of investigation.
2. Be that as it may, the grievance of the petitioner is two folds. Firstly, the appellant claims that his

predecessors and the appellant are also continuously carrying on Pisciculture in the pond in question. Secondly, it is submitted that all on a sudden the private respondents have attempted to interfere with the Pisci-culture operation done by the appellant in a high-handed manner with active support of the third respondent/Inspector-in-Charge.

3. Insofar as the first issue is concerned the learned government advocate has got written instructions in which an order passed by the Block Land and Land Reforms Officer has been appended. A cursory reading of the said order, it is evident that the pond in question is vested to the State Government. It is not clear as to how the appellant's predecessors and the appellant have been carrying on Pisciculture operation in the vested pond. The contention of the learned advocate for the appellant is that the vesting itself is absolute false and no such proceedings to the knowledge of the appellant have been taken in the manner known to law. In any event, if the appellant is aggrieved by the order passed by the Block Land and Land Reforms Officer then the remedy of the appellant lies elsewhere and not by way of the writ petition. The appellant's complaint is now pending before the third respondent/police

and it has not been investigated. It is alleged that coupled with the fact that there are certain allegations against the third respondent police we direct the respective Superintendent of Police, Dakshin Dinajpur to assign the investigation to some other police officer, who shall independently conduct investigation and proceed in accordance with law. It is well open to the appellant to work out his remedy against the order passed by the Block Land and Land Reforms Officer for protection of his alleged right in the manner known to law.

4. With the above observations, the appeal and the connected application are disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)