

Dd 22 02.08.2023

FMA 1096 of 2022
with
I.A NO: CAN 1 of 2022

Godrej Properties Limited
Vs.
The State of West Bengal & Ors.

Mr. Sakti Nath Mukherjee, Sr. Adv.
Mr. Aniruddha Chatterjee,
Mr. Siddhartha Banerjee,
Ms. Soni Ojha, Advocate
... .. For the Appellant

Mr. Chandi Charan De, AGP
Mr. Soumitra Bandopadhyay,
Mr. Anirban Sarkar, Advocates
... .. For the State

Mr. Soumyajit Bhatta, Advocates
... ..For the Panihati Municipality

The writ petition is directed against a judgment and order dated July 5, 2022 passed in WPA 2339 of 2022.

By the impugned judgment and order, the learned trial Judge permitted the writ petitioner to approach the appropriate authority for redressal of their grievances. The learned trial Judge directed the authority to deal with the representation of the writ petitioner dated January 9, 2014 after taking into consideration letters dated March 18, 2014 and January 31, 2018.

In the writ petition, two writings of the State, dated August 17, 2010, August 18, 2010 were assailed.

In the appeal, various orders were passed by the coordinate Bench. Of importance are orders dated April 18, 2023 and May 3, 2023.

The relevant portion of the order dated April 18, 2023 is as follows :-

"In the aforesaid factual background of the case, we direct the Secretary and Ex-officio Commissioner of Land & Land Reforms Department, Govt. of West Bengal to file a report in the form of affidavit indicating the clear stand of the State Administration as regards exchange of Plots A and C after having Plot A released from vesting. We expect a fair and frank report in the above regard. We understand that Plot C was made over to the Municipality some time in 2009-10 on the understanding that Plot A will be made over to the appellant after releasing the same from vesting. More than 12 years have gone by since then. This chapter must be brought to an end at an early date.

Needless to say, while preparing the report, the Secretary and Ex-officio Commissioner of Land & Land Reforms Department will take into consideration the Memo dated January 31, 2018, issued by the Joint Secretary to the Govt. of West Bengal, addressed to the District Magistrate, North 24 Parganas, the contents whereof have been extracted hereinabove.

List the matter once again on 2.5.2023. ON that date, the report in the form of affidavit, that we have called for, will be filed in Court."

The relevant portion of the order dated May 3, 2023 is as follows:-

"Let such report be filed by the adjourned date i.e. May 15, 2023, when this matter will be listed again under the same heading. Advance copy of the report shall be made available by learned advocate-on-record for the State to learned advocate-on-record for the appellant by May 12, 2023."

Two reports were submitted, pursuant to orders dated April 18, 2023, May 3, 2023 and May 15, 2023 being dated May 12, 2023 and June 9, 2023.

Learned senior advocate appearing for the appellant draws the attention of the Court to a chart submitted in Court. He submits referring to the chart that, the land comprised in the Block named as Land-`C' was being utilized by the State authorities. Such land was owned by the writ petitioner. Land-A block was vested with the State. Writ petitioner proposed to exchange Land-A with Land-C.

Learned senior advocate appearing for the appellant submits that, in the report dated June 9, 2023, the authorities required the writ petitioner to approach the Block Land & Land Reforms Officer, Barrackpore-II to consider the prayer of the writ petitioner for exchange of land as proposed and to explore the possibility of settling the issue by invoking the provisions contained in Section 14T(3A) of the West Bengal Land Reforms Act, 1955.

Learned senior advocate appearing for the State submits on instruction that, in the event, the BL&LRO is approached, in terms of the observations made in the report dated, June 9, 2023, the same may be considered in accordance with law.

We find from the records that, the State agreed to undertake an exercise under Section 14T(3A) of the Act of 1955, if so approached by the writ petitioner.

The relevant portion of the report dated June 9, 2023 is as follows :-

"6. I humbly submit that it also transpires from the relevant documents and enquiry report of the DL&LRO, North 24 Parganas, dated 29.05.2023 that the company has erected multistoried building on the vested land in Sukhchar Mouza(J.L.No.09). The said land was vested through a proceeding under section 14T(3) of the West Bengal Land Reforms Act, 1955 (Hereinafter referred as WBLR Act, 1955) vide case no. 1/2008 drawn up and disposed of by the Revenue Officer posted at the office of the BL&LRO, Barrackpore-II on 11.11.2008. As it appears from the order sheet of the said vesting proceeding that the company participated in the said proceeding but in spite of providing opportunity to the company, the company did not furnish any option for retaining its land. Later, on appeal, the said proceeding was upheld by the Appellate Authority also.

7. It is submitted that in the letter dated 31.01.2018 issued by the Joint Secretary to the Government of West Bengal requested the District Magistrate, North 24 Parganas to initiate suitable steps so that the matter can be resolved by way of issuance of post facto approval with the concurrence with the L&LR and RR&R Department, Government of West Bengal.

8. *I humbly submit that after considering all, it seems to me that the parties entered into the purported agreement without obtaining the opinion of L&LR and RR&R Department. Though it has been stated that a letter was issued to this Department seeking opinion of this Department but they failed to produce any document showing communication from this Department in this regard. No file in this regard is also readily traceable in this Department.*

9. *I humbly submit that according to section 14T(3A) of the WBLR Act, 1955 the Revenue Officer, appointed under that Act, having jurisdiction is the competent authority to revise and determine afresh the extent of land which is to vest in the state. However, considering the issue raised in the present case and also the fact that the project was made for public purpose and that has already been completed by spending a huge public money and also the letter dated 31.01.2018, the impasse is required to be sorted out and for achieving that, the petitioner company may approach the BL&LRO, Barrackpore-II who will consider the prayer in accordance with law and explore the possibility of setting the issue by invoking the provision contained in Section 14T(3A) of WBLR Act, 1955."*

In such circumstances, it would be appropriate to permit the writ petitioner to approach the concerned BL&LRO with the prayer for exchange of land as proposed in this appeal within a period of four weeks from date.

The concerned BL&LRO will consider such representation, in accordance with law, after affording a reasonable opportunity of hearing to the appellant. The concerned BL&LRO is at liberty to hear such other parties and consult such documents as it deems appropriate. The concerned BL&LRO officer will pass a reasoned order which he will communicate to the parties, he heard forthwith thereafter. It is expected that the concerned BL&LRO completes the entire exercise within a period of six months from the date of communication of this order.

With the aforesaid observations, FMA 1096 of 2022 along with all connected applications are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)