

36 18.09.2023
Ct. No. 01

AN

WPA(P) 475 of 2023

Kalyan Kumar Roy & anr.
Vs.
State of West Bengal & ors.

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Mousumi Hazra
Ms. Payel Shome
Ms. Sampriati Saha
Ms. Purba Mukherjee
Mr. Avijit Kar

... for the petitioners

Mr. Anirban Ray, ld. G. P.
Sk. Md. Galib
Mr. S. Dewan

... for the State

1. By way of this writ petition styled as a Public Interest Litigation the petitioner seeks for an appropriate direction upon the respondents to declare all transfers by way of sale or exchange of a land which has been earmarked for public purpose in favour of the third party as illegal and void.

2. It is submitted that in the year 2005, a plot of land was gifted in favour of the Panchayat by several persons and the gift is said to have been accepted and the Panchayat had earmarked the land as a play ground/play area. The allegation in the writ petition as well as that in the mass petition dated 08.05.2023 is that the Pradhan of the Panchayat who is the 4th respondent has executed a deed of exchange in favour of the private respondent nos. 5 to 7 by transferring the land in their favour for private gain. Though the private respondents have been served and

affidavit of service has been filed, none appears for the private respondents today. Be that as it may, the 3rd and the 4th respondent, though served, are not represented.

3. We have heard learned counsel for the respective parties elaborately.

4. The legal position which has been settled in various decisions is that if the land is ear-marked for a public purpose, the same has to be preserved as such and the Panchayat or the Pradhan or the Municipality to whom the land has been entrusted, has to preserve the same without any change of the nature and character of the land or the purpose for which the land had been ear-marked. In the event, if any transfer had taken place, transfers are all void transactions and no right will accrue in favour of the transferee as such the transfers are illegal. In this writ petition, the petitioner alleges that the 4th respondent has transferred the land gifted for public purpose in favour of the private respondents. In this regard, a mass petition dated 08.05.2023 has been given to the District Magistrate, North 24 Parganas and the same is pending consideration.

5. In the light of the above, there will be a direction to the second respondent viz. the District Magistrate, North 24 Parganas to consider the representation dated 08.05.2023 and to direct the 3rd and 4th respondent to place all records pertaining to all the lands in question and one of his Officers to conduct a spot inspection of the land in question and thereafter if it is found that the transfers are illegal, appropriate action be

taken in accordance with law. The District Magistrate before taking a decision shall also issue notice to the donors who had executed the gift deed dated 20.06.2005. However, it goes without saying that respondent nos. 5 to 7 have to be put on notice prior to taking of any action and with the views of the writ petitioner &/or other representatives in the locality, shall also to be ascertained before the final orders are passed. The above directions be complied with within a period of four weeks from the date of receipt of the server copy of this order.

6. With the above observations, the instant writ petition stands **disposed of**.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)