

135-137
13.12.2023
S.D./A.D.

R.V.W. 243 of 2023
With
CAN 1 of 2023
CAN 2 of 2023
Burdwan Development Authority, represented
By the Chief Executive Officer & Anr.
Vs.
Krishnaprasad Ghosh & Ors.
in
M.A.T. 569 of 2023
With
CAN 2 of 2023
Burdwan Development Authority, represented
By the Chief Executive Officer & Anr.
Vs.
Krishnaprasad Ghosh & Ors.
With
M.A.T. 377 of 2023
With
CAN 1 of 2023
CAN 2 of 2023
Krishna Prasad Ghosh & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Supratim Dhar
Mr. Sourav Chatterjee
..for the Review petitioners, appellants
in MAT 569 of 2023 and respondent
nos. 5 & 6 in MAT 377 of 2023.

Mr. Uttiya Roy
...For the appellants in MAT
377 of 2023, and respondent nos.
1 to 4 in MAT 569 of 2023 and
opposite parties in the review
application

Mr. Chandi Charan De, AGP
Md. T.M. Siddiqui, AGP
Mr. Anirban Sarkar

...For the State

CAN 1 of 2023 is an application for condonation of delay.

In view of the averments made in the application and for the ends of justice, CAN 1 of 2023 is allowed and the delay is condoned.

Review is taken up for final hearing.

In view of the aBurdwan Development Authority and its Chairperson seeks review of the judgment and order dated July 24, 2023 passed in M.A.T. 569 of 2023 and M.A.T. 377 of 2023 and the interim applications filed therein.

By the judgment and order dated July 24, 2023, we noted that the appeals were directed against an order dated December 15, 2022 passed in the writ petition by the learned Single Judge. By such order, the learned Single Judge disposed of the writ petition by directing the 5th respondent in the writ petition to take the proceeding for direct purchase of the plots in question and bring the same to its logical conclusion by keeping view of the present market value of the plot within a period of three months from the date of communication of the order.

Two separate appeals being M.A.T. 569 of 2023 and M.A.T. 377 of 2023 were preferred against the judgment

and order dated July 24, 2023 passed by the learned Single Judge. M.A.T. 569 of 2023 was at the behest of the review applicants here while M.A.T. 377 of 2023 was at the behest of the private respondents in the review application.

The two appeals were disposed of by the judgment and order dated July 24, 2023 by directing the review applicant no. 1 to purchase 0.21 acres of land from the private respondent on a direct purchase basis. The consideration of the purchase was directed to be the market price of the land as quantified by the registration authorities by treating the land as used for commercial purpose.

Learned advocate appearing for the review applicants submits that, the review applicants were without any opportunity to place their case before the learned Single Judge. The LA, RS and LR Maps could not be placed before the learned Single Judge. He refers to the claim of the private respondents. He submits that the claim of the private respondents revolves around Plot variously called as 553/792 or 792. He submits that in respect the Plot No. 792, four title suits were filed being T.S. No. 4 of 2007, T.S. No. 5 of 2007, T.S. No. 7 of 2007 subsequently renumbered as T.S. No. 34 of 2011 and T.S.

No. 11 of 2007. In all these four suits, a total area of land involved a total of 16 decimals. Consequently, the private respondents cannot claim right in respect of 5 decimals of land.

Learned advocate appearing for the review applicants submits that his clients purchased 16 decimal of land from the private respondents. Although no further person claimed title in respect of the balance 5 decimals of land, the private respondents also does not possess title in respect of the same. He submits that, the letter dated February 1, 2016 issued by the authorities need to be considered in the light of the title deed existing in favour of the private respondents.

Learned advocate appearing for the State submits that, the private respondents are able to demonstrate title in respect of 16 decimals of land only. There is an error in the LR Map and, therefore, there was an erroneous recording in the letter dated February 1, 2016. He submits that the review applicants cannot be asked to purchase something which the private respondents are not the owners of.

Learned Advocate appearing for the private respondents submits that, initially four title suits were

filed. Those suits were compromised by virtue of a terms of settlement. Subsequent to the terms of settlement being executed, review applicants, private respondents and State held a meeting. The result of such meeting was recorded in writing contained in the letter dated February 1, 2016. Referring to such meeting which was held with the plot owners, their learned Advocates as also Land Acquisition Officials on July 8, 2015 he submits that, it was agreed that, 21 decimals of land would be purchased from the private respondents.

The private respondents herein approached the Writ Court for reliefs with regard to land belonging to the private respondents over which a bus terminal was built by the review applicants. The bus terminal is being operated by a private entity. No compensation was paid to the private respondents for the land, the possession of which was taken from them. As noted above, there is bus terminal which is functioning on the plots concerned. As on date, none of the parties draw the attention of the Court to any document suggesting that there is a claim of any private individual which is contrary to the claim to the private respondents in respect of the land concerned.

The disputes now boil down to whether or not, the private respondents in the review application are owners of 21 decimals of land. The private respondents filed five title suits, namely, Title Suit Nos.4 of 2007, 5 of 2007, 6 of 2007, 7 of 2007 subsequently renumbered as 34 of 2014 and 11 of 2007. In aggregate the total land comprised in these five suits is 21 decimals.

Subsequent to the suits being filed, a compromise was entered into between the review applicants as well as the plaintiffs in the five title suits. There is a letter dated February 1, 2016 on record. It was issued by the review applicants to the State of West Bengal, where it discussed the settlement of the disputes involved in the title suits. It records that, in order to settle the problem, a meeting was held with the plot owners their lawyers and Land Acquisition Officials on July 8, 2015. The letter also refers to the resolution taken in such meeting. It also refers to the private entity agreeing to pay, the cost of the acquisition through purchase and the endorsement of the member of the review applicants with regard thereto.

State of West Bengal by a letter dated February 14, 2017 approved of the letter dated February 1, 2016 of the review applicants. State of West Bengal granted approval

for direct purchase. The plot in respect of which such approval was granted is noted as LR Plot No.553/792 measuring an area of 0.21 acres. There is, therefore, no dispute with regard to the area of the land to be purchased and the persons from whom such land was to be purchased.

In view of such categorical stand taken at the material point of time both by review applicants as well as State of West Bengal, the contentions now sought to be raised are absolutely misplaced. A joint meeting was held between all stakeholders and measurement of the locale was undertaken in presence of persons who know the subject, namely, the Land Acquisition Officials. At no stage of such exercise, did any of the Land Acquisition Officials or the review applicants officials point out that there was any error with regard to the measurement or the claim of the private respondents. No dispute with regard to the title of the private respondents in respect of 21 decimals of land was ever raised contemporaneously. Rather by two several writings, the review applicants and the State concurred with the view that 21 decimals of land is required to be purchased from the plot owners. The plot was also identified.

Review applicants failing to adhere to their declared stand, as noted above, we directed purchase by our order dated July 24, 2023.

At this stage, therefore, we are unable to return a finding that there is any error apparent on the face of the record in our judgment and order dated July 24, 2023 requiring review.

In such circumstances, we dismiss the review application with costs assessed at Rs.1,00,000/- (Rupees One Lakh) to be paid by the review applicant no.2 to the private respondents in equal shares, from out of her own funds within a period of seven days from date. In default, the District Magistrate will initiate proceedings for recovery of such costs and report compliance thereof.

Learned Advocate for the State is directed to communicate this order to the District Magistrate for compliance.

RVW 243 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

