

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 26987 of 2015

**Sk. Abdul Halim & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Partha Pratim Roy
Mr. Anirban Das
..for the petitioners

Mr. Ashis Guha
..for the State

Item No.16

Heard & Judgment on: 15.06.2023

Bibek Chaudhuri, J.

Petitioners have claimed themselves to be the raiyats of respective portions of land in all measuring about 14.86 acres of land in Mouza Gopegarh, J. L. No. 148.

Dispute arose when a Government Notification was issued on 17th February, 1952 directing the control of waste land mentioned in the schedule to be vested in the Regional Forest Officer, Midnapur for

the purpose of afforestation for a period of 30 years. It is also said that the petitioners were raiyats in respect of portion of land falling in plot No.5. subsequently, as per record of rights, the portion of land contained in plot No. 5 was reduced to 169.98 acres. Then the petitioners filed an application under Section 44(2a) of the West Bengal Estate Acquisition Act for recording of their names as raiyats in respect of the said plot. An order was passed in this regard on 16th September, 1960 declaring that the petitioners were entitled to claim 6.7 acres of land from the said plot. The petitioners thereafter applied for demarcation of the land. However, the concerned DFO turned down such prayer and even wrongly mentioned total area of land contained in the said plot as the forest land. In the meantime, L.R. record was published. In the L.R. record of rights also the forest land area was shown as 169.98 acres. As per Khatian No. 210, however, the area of land under control of the forest department was shown as 155.12 acres. This discrepancy has hampered the right of the petitioners over the land possessed by them. Hence, the writ petition.

During hearing of the instant writ petition a Co-ordinate Bench vide order dated 20th March, 2023 directed the Block Land & Land Reforms Officer to cause survey of the land and demarcated the land after serving notice to both the parties. The said respondent was directed to file a report to the tune of the survey report made by the

jurisdictional B.L. & L.R.O. Today the State Respondent through its learned advocate filed a detailed report.

It appears from the report submitted by the jurisdictional B. L. & L.R.O. that he conducted inspectional survey of the land in question in presence of the representatives of the forest department, Government of West Bengal and some of the petitioners. During inspection the petitioners claimed that 14.86 acres of land was allotted to them by the then Zamindar Raja Narendralal Khan through 'AMALNAMA' in the year 1949. On the other hand, by a notification No. 10541 dated 17th December, 1952 in Calcutta Gazette on 15th January, 1953 total area of plot No.5 was recorded as 184.95 acres. Subsequently, by another notification No. 2684 dated 17th May, 1969 which was notified in Calcutta Gazette 10th July, 1969. Total area of land in plot No. 5 was recorded as 169.98 out of which during R.S. operation 155.12 acres of land was recorded in the name of the forest department and remaining 14.86 acres of land were recorded in favour of the petitioners. After R.S. operation and publication of record of rights, L.R. operation was carried out and in L.R. record of rights the said 14.86 acres of land was recorded in favour of different petitioners. Thus, a report of the B.L.& L.R.O. which has been submitted by the State Respondent through its learned advocate supports the contention of the petitioners.

I have carefully perused the report submitted by B.L. & L.R.O. Sadar Paschim Medinipur. I do not have any hesitation to hold that the report submitted by the B.L. & L.R.O. Sadar Paschim Medinipur in the instant writ petition is one of the neatly surveyed and finely drafted report I have come across while dealing with the cases of similar nature. The report has also relieved the learned advocate for the State of his burden to place the case before this Court in its true and real perspective.

Therefore, I propose that the District Magistrate and the Collector of Paschim Medinipur shall record it a token of appreciation in the service book of the concerned B.L.& L.R.O. Sadar Paschim Medinipur. Considering such report it is submitted by the learned advocate for the State that the State has no objection if raiyati right of the petitioners in respect of the plot/plots which they are in possession is declared.

In view of such circumstances, the instant writ petition is disposed of directing the respondent No.8 to declare the petitioners as raiyats in respect of the plots total area of which shall not exceed 14.86 acres after demarcating the respective lands of the raiyats through the B.L. & L.R.O.

The Forest Department, Government of West Bengal, is permanently restrained from making any demand over the said 14.86 acres of land.

The instant writ petition is, thus, disposed of on contest.

(Bibek Chaudhuri, J.)