

Item No.5
20.03.2023
Court. No. 19
GB

WPA 28665 of 2022

Basanti Dutta & Ors.
Vs
The State of West Bengal & Ors.

Mr. Uttiya Ray,
Mr. Arnab Mandal

...for the Petitioners.

Mr. Molay Singh,
Mr. Bibekananda Tripathy

...for the State.

The writ petition is disposed of with a direction upon the District Magistrate, Purba Burdwan to direct his officials to enter into a negotiation with the petitioners for settlement of the issue of utilization of a portion of the petitioners' land situated at Plot No.346 of Mouza-Khanro for construction of a Su-Swasthya Kendra by the concerned gram Panchayat.

No satisfactory explanation has come from the State respondents which would indicate that the land had vested after the decrees passed in the civil suits. The only vesting process which surfaces here is a Big Raiyat proceeding initiated under the West Bengal Estate Acquisition Act, 1953. Subsequently, two civil courts had decreed that Plot No..346 was the retained land of the petitioner and shall not be treated as a vested land. Permanent injunction was also granted restraining the defendants, namely, the State authority from interfering with the peaceful enjoyment of the said plot of land by the petitioners. The petitioners claim title by inheritance.

Although, it is submitted by the learned counsel for the state that the decision of the Big Raiyat case had not been properly placed in the civil suit, the State respondents lost the Title Appeal No.71 of 1988 as well and also the subsequent suit. In both the suits, the predecessor of the petitioners were successful in proving that Plot No.346 was their retained land.

Thus, this Court is of the view that the provisions of Section 44 of the West Bengal Panchayat Act, 1973 shall be applicable. As the petitioners are not willing to grant consent the authority may explore the possibility of direct purchase.

The entire exercise shall be completed within a period of six months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)