

04.01.2023
Sl. No.27(DL)
srm

W.P.A. No. 28803 of 2022

Surajit Adhikari & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh

....for the Petitioners.

Mr. Gausul Alam,
Mr. Ranjit Rajak

...for the State-respondents.

Affidavit-of-service is taken on record.

The petitioners allege that their right, title and interest in respect of RS Dag Non.1123 pertaining to J.L. No.85 within mouza Charaghata, District-South 24-Parganas, had been declared by the learned Munsif, 3rd Court at Baruipur in Title Suit No.470 of 1970.

The predecessors-in-interest of the petitioners applied before the competent authority for correction of the record of rights on the basis of the judgment and decree passed by the learned Civil Court. As the authorities did not take any steps, the predecessors-in-interest of the petitioner Nos.1 to 3 and others filed WP No.7555(W) of 1999. The said writ petition was disposed of with a direction upon the competent authority to grant a

hearing to the applicants therein and take a decision with regard to the prayer for correction of the record of rights.

As no steps had been taken since the order of the High Court, the petitioners once again approached the learned Land Reforms and Tenancy Tribunal and OA No.1065 of 2022 was registered. The matter is pending before the learned Tribunal.

In the meantime, it is alleged that some persons claiming to be representatives of the Pradhan of Dhosa Chandaneswar Gram Panchayat, District-South 24-Parganas visited the land in question and intimated the petitioners that certain works would have to be done on the said land for installation of a water tank. Some photographs have also been annexed to the writ petition.

The Block Development Officer, Joynagar-I Development Block has filed a report. It appears that an initial measurement had been done on the land which was identified for the proposed water tank. A joint measurement was also made but no construction has yet been started. It appears from the statement filed by the Block Development Officer, that the land was identified as vested land by the Block Land and Land Reforms Tribunal, Joynagar-I. The petitioners claim title on the basis of the compromise decree dated May 23, 1972.

It appears that the decree was a compromise decree between the predecessor-in-interest of the petitioners and a private individual. The state was not a party.

It is the specific contention of the State-respondents that no construction of water tank has yet been started.

Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate, South 24-Parganas to treat the writ petition as the representation of the petitioners and dispose of the same in accordance with law. A reasoned order shall be passed and communicated.

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

It is made clear that this Court does not have the jurisdiction to decide the issue of vesting and the only decision that shall be taken by the District Magistrate is whether any part of the land of the petitioners over which the petitioners, at present, have exclusive right, title and interest had been selected by the authority for construction of the water tank.

The reasoned order will disclose whether the land had been vested or not. The land records shall be consulted and assistance shall be taken from the Block Land and

Land Reforms Officers. The order shall not have any impact on the proceedings before the learned Tribunal.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)