

24.11.2023
Sl. No.46
pkd

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
[Appellate Jurisdiction]

M. A. T. 193 of 2023

IA NO: CAN/1/2023

TERAI INFRASTRUCTURES LTD. AND ORS.

VS.

**SILIGURI JALPAIGURI DEVELOPMENT
AUTHORITY AND ORS.**

Mr. Joydip Kar, Sr. Adv.
Mr. Bkramaditya Ghosh
Mr. Sitesh Gupta for the appellants

Mr. Raja Saha
Mr. Bedashruti Bose
Mr. Subham chanda ... for SJDA

Mr. Debdut Mukherjee
Mr. Gourab Das
Mr. Deborshi Dhar ...for added respondent

The appeal is directed against an order dated October 5, 2023 passed in WPA 1707 of 2023 with CAN/1/2023 and CAN/2/2023.

By the impugned order, the learned single Judge, disposed of the writ petition by directing the Chief Executive Officer, Siliguri Jalpaiguri Development Authority [SJDA] to dispose of the application filed by the writ petitioner for issuance of Land Use Compatibility Certificate [LUCC] after taking into consideration the report filed by the concerned District Land & Land Reforms Officer [DL & LRO] within a period of three months from the date of communication of that order. The learned single Judge did not decide the two applications being CAN/1/2023 and CAN/2/2023 filed in the writ petition for addition of party in such writ petition. The

learned single Judge granted liberty to the applicants of CAN/1/2023 and CAN/2/2023 to ventilate their grievances before the Chief Executive Officer, SJDA.

Learned senior advocate appearing for the appellants submits that, the appeal is restricted to the learned single Judge allowing the applicants of CAN/1/2023 and CAN/2/2023 to ventilate their grievances before the Chief Executive Officer, SJDA.

Learned senior advocate appearing for the appellants submits, the learned single Judge erred in allowing the applicants in CAN/1/2023 and CAN/2/2023 to ventilate their grievances before the Chief Executive Officer, SJDA. He submits that, between the appellants and the applicants of CAN/1/2023 there are a number of civil suits pending relating to the right, title and interest of the immovable properties. The applicants of CAN/1/2023 are without any right, title and interest in respect of 2.8635 acres of land in respect of which, the appellants are seeking LUCC from SJDA. So far as the applicants of CAN/2/2023 are concerned, they did not disclose any document to establish their claim in respect of that 2.8635 acres of land concerned in the appeal. Therefore, he submits that, the learned single Judge erred in directing the Chief Executive Officer, SJDA in deciding the claims made by the applicants of CAN/1/2023 and CAN/2/2023.

Applicants of CAN/1/2023 and CAN/2/2023 are represented.

A writ petition was filed at the behest of the appellants being WPA 1707 of 2023. The prayers in such writ petition are as follows :

“a. A writ in the nature of mandamus directing the respondent authorities particularly the respondent no.3 to issue and grant an appropriate Lucc in respect of 2.8635 acres of land more particularly described in Annexure ‘P-3’ appearing in this writ petition in favour of the petitioners;

b. Appropriate orders/directions directing appointment of an independent surveyor at the cost of the petitioners to forthwith conduct a survey of the said land measuring 2.8635 acres more particularly described in Annexure ‘P-3’ appearing in this writ and ascertain the status thereof, if deemed appropriate by this Hon’ble Court;

c. Appropriate orders/directions in alternatively directing the respondent authorities to consider and act upon the enquiry reports and mps as appearing in Annexure ‘P-8’, Annexure P-12’ and Annexure P-13’ appearing in this writ petition and pass necessary orders upon the Lucc application dated 18.11.2022 of the petitioners, if deemed appropriate by this Hon’ble Court.

d. Mandatory injunction directing the respondent authorities particularly the respondent no.3 to issue and grant an appropriate Lucc in respect of 2.8635 acres of land more particularly described in Annexure ‘P-3’ appearing in this writ petition in favour of the petitioners;

e. Such further order/orders as deemed fit by the Hon’ble Court;

f. Costs and incidentals. “

In such writ petition, applicants of CAN/1/2023 and CAN/2/2023 applied for being added as parties to such writ petition. Apparently, they claim right, title and interest in respect of 2.8635 acres of land which forms subject matter of the application for LUCC from SJDA made by the appellants.

Learned single Judge did not decide the issue as to whether the applicants of CAN/1/2023 and CAN/2/2023 were necessary or proper parties to the writ petition. Learned single Judge, by the impugned order, allowed such applicants to ventilate their grievances to the Chief Executive Officer, SJDA.

In our view, it is essential that, the learned single Judge decides the issue as to whether, the applicants of CAN/1/2023 and CAN/2/2023 are necessary or proper parties to the writ petition. Their applications being CAN/1/2023 and CAN/2/2023 are required to be decided on merits.

In such circumstances, the impugned order is set aside. CAN/1/2023 and CAN/2/2023 along with WPA 1707 of 2023 are remanded to the learned single Judge for decision.

Learned senior advocate appearing for the appellants submits that, SJDA was sitting tight over the application for LUCC for a considerable period of time. He seeks a direction for expeditious disposal of the writ petition.

The parties are at liberty to mention before the learned single Judge for early disposal of the writ petition and the connected applications remanded by this order.

MAT 193 of 2023 along with CAN/1/2023 and CAN/2/2023 are disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)