

14.06.2024
ct. 6/SI. No.20
tkm

MAT 251 of 2024
CAN 1 of 2024

In re : Jogesh Chandra Saha

...appellant

Mr. Debasis Sur
Mr. Goutam Sardar
Mr. Goutam Malik

... .. for the appellant

Mr. Chandi Charan De
Ms. Reshmi Rehmon

... .. for the State

Mr. S Banerjee
Mr. Arka Kr. Nag
Ms. Deboleena Ghosh

... .. for Raiganj Municipality

1. Appellant had approached the learned single judge seeking direction upon the respondent-municipality not to undertake construction at the plot of land till disposal of the application before the Land Reforms Tenancy Tribunal.
2. Appellant's case is that he is the owner of the land in question but the respondent-municipality entered its name in the record of rights. He has prayed for cancellation of record of rights and the matter is pending before the Land Reforms Tenancy Tribunal being OA no. 2124 of 2020 and 2125 of 2020. In the meantime, the municipal authorities are illegally taking steps to set up an urban health center on the land.
3. Learned single judge observed that the proceedings before the land tribunal is pending since 2017 and as the municipality is undertaking work involving public utility, no interference is called for.

4. Learned counsel for the appellant submits municipality has no right, title and interest on the land.

5. On the contrary learned counsel for the municipality contends the land had been donated to the municipality by its lawful owner. Appellant has no right, title and interest in the property.

6. Municipality claims title to the property though a registered deed of gift. Admittedly appellant has not paid for cancellation of the said gift deed.

7. Issue before the tribunal relates to cancellation of record of rights and not title of the property. There is no order of injunction on the municipality with regard to use or enjoyment of the property. Municipality is in possession of the property and is taking steps to set up an urban health center.

8. Learned single judge rightly declined to interfere with such public utility activity.

9. Appeal is without merit and accordingly dismissed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)