

09.01.2024

Ct. no.654

Sl. No.27

ss

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

**W.P.A. 4663 of 2023**  
**(Specially Assigned)**

***Murshidabad Patni Co-operative Society Ltd. & anr.***  
***Vs.***  
***The State of West Bengal & ors.***

*Mr. Partha Pratim Roy*  
*Mr. Sarbananda Sanyal*  
*... for the petitioners*  
*Mr. Chandi Charan De, Ld. AGP*  
*Mr. Anirban Sarkar*  
*... for the State*

This writ petition has been filed under Article 226 of the Constitution of India challenging the tender floated by the Estate Manager, Murshidabad Estate being No.68/ME/J/2023 dated 8<sup>th</sup> February, 2023 for operation of Icchhagunj Ferry Ghat.

The brief fact of the case is that the petitioner no.1 is a co-operative society registered under West Bengal Co-operative Societies Act, 1983 and the petitioner no.2 is the Secretary of the said Society, which is engaged in transportation of ferry service. The Icchhagunj ferry ghat was vested with the Management of Murshidabad Estate. After promulgation of Murshidabad Estate (Management of Properties) and Miscellaneous Provisions Act, 1980 (hereinafter referred to as "Act of 1980") the property of Murshidabad Estate has been vested with the State Government. Thus, the notice inviting auction dated 8<sup>th</sup>

February, 2023 floated by the Estate Manager is not in accordance with law since upon vesting the Icchhagunj ferry ghat has become a Government ferry. This writ petition has been filed for cancellation of the notice inviting tender of the Estate Manager, Murshidabad Estate as aforesaid.

Mr. Partha Pratim Roy, learned Advocate for the petitioners submit that as per Section 3 of the Act of 1980 the property of Murshidabad Estate is vested with the State Government on and from the appointed day i.e. 11<sup>th</sup> March, 1981. Though, the Act empowers the Estate Manager to manage and administer the property vested with the State Government but there is no such specific provisions empowering the Estate Manager to call for public auction for operation of ferry ghat. In light of his aforesaid submissions, he prays that the notification dated 8<sup>th</sup> February, 2023 inviting e-auction for operation of ferry ghat by the Estate Manager, Murshidabad Estate should be cancelled/rescinded.

In reply to the contentions raised on behalf of the petitioners, Mr. Chandi Charan De, learned Additional Government Pleader submits that as per Section 6 of the Act of 1980, the Estate Manager has the authority and power to manage and administer the property vested with the State Government and therefore, the notice inviting auction for operation of ferry ghat is well within his power and authority. Accordingly, the writ petition is liable to be dismissed.

In order to appreciate the issue raised in the present writ petition, it would be appropriate to reproduce Section 3 of the Murshidabad Estate (Management of Properties) and Miscellaneous Provisions Act, 1980 as hereunder.

*“3(1) On and from the appointed day, the properties of the Murshidabad Estate (hereinafter referred to as the Estate properties) shall, by virtue of this Act, stand transferred to, and vest in, the State Government.*

*(2) Upon the transfer of the Estate properties to, and vesting thereof in, the State Government under sub-section (1), the State Government may take, or cause to be taken, such steps as it considers necessary for securing the possession thereof.”*

The aforesaid Act of 1980 was published in the Calcutta Gazette Extraordinary of 11<sup>th</sup> March, 1981. Therefore, by virtue of the aforesaid provisions since 11<sup>th</sup> March, 1981 the property of Murshidabad Estate has vested with the State Government. The Estate Manager, Murshidabad Estate in its report dated 6<sup>th</sup> March, 2023 has indicated as follows:-

*“As the properties in Murshidabad Estate is controlled and managed by the Murshidabad Estate (Management of Properties) and Miscellaneous Provision Act. 1980, W.B.L.R. Manual is not applicable to the properties of Murshidabad Estate. If the properties of Murshidabad Estate is managed by the West Bengal Land Reforms Act, 1955, said properties should have been transferred into Khas Khatian No. 1 of the Collector but actually the properties of Murshidabad Estate are lying in different Khatians.*

*The Estate Manager has every right to float tender in respect of settlement of Icchaganj Ferry Ghat through e-Auction process as per the Section 6 of Murshidabad Estate (Management of Properties) and Miscellaneous Provision Act. 1980. Since 1959 the Icchaganj Ferry Ghat has been being settled by the Murshidabad Estate.”*

Such analogy of the Estate Manager cannot be accepted since in view of Section 3 of the Act of 1980 on and from the appointed day i.e. 11<sup>th</sup> March, 1981, the property of the Murshidabad Estate already vested with the State Government. Now the question which needs to be addressed is whether the Estate Manager under the Act of 1980 had the authority to invite public auction for operation of ferry ghat.

Mr. Chandi Charan De, learned Additional Government Pleader tried to impress upon the Court by referring Section 6 of the Act of 1980 that since the Estate Manager had the authority to manage and administer the estate property hence he was empowered to call for public auction for operation of ferry ghat. Though Section 6 of the Act of 1980 provides that the estate properties which stand transferred to and vested in the State Government under sub-section (1) of Section 3 shall, subject to the provisions of this Act and the Rules made thereunder, be managed and administered on behalf of the State Government by the Estate Manager, yet the Act does not specify or provides conferring any powers upon the Estate Manager calling for public auction for operation of ferry ghat.

It is relevant to note that Section 11 of the Act of 1980 gives the Estate Manager the power to dispose of immovable property by sale or by public auction only with the previous approval of the State Government forming part of Estate properties for the purpose of repayment of debts and discharge of liabilities. However, since this is not the case of disposal of immovable property for the purpose as aforesaid, Section 11 of the Act of 1980 does not apply to the facts of the case. Mr. Roy, learned Advocate for the petitioner has correctly indicated the above provision.

In light of the above discussions, the writ petition being **W.P.A. 4663 of 2023** stands allowed. The notice inviting E-auction being No.68/ ME/J/2023 dated 8<sup>th</sup> February, 2023 of Estate Manager, Murshidabad Estate, respondent no. 3 for operation of Icchhaganj Ferry Ghat within the District of Murshidabad stands cancelled.

The State-respondents are directed to issue fresh notice inviting auction in accordance with law within a period of three months from date.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

**(Bivas Pattanayak, J.)**