

15.05.2024

Ct. no.654

Sl. Nos.281

ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

WPA 5479 of 2023

(speically assigned)

Sumanta Biswas & ors.

Vs.

The State of West Bengal & ors.

Md. Ali Mansoor

... for the petitioners

Mr. Soumitra Bandyopadhyay

Mr. Subhasis Bandyopadhyay

... for the State

By the present writ petition the petitioners have prayed for release of land measuring 57 decimals within plot No.189 at Mouza Duttapukur, J.L. No.122, Police Station Barasat, District 24-Parganas (North).

The petitioners' case in nutshell is that the predecessor-in-interest of the petitioners namely, Jayanta Kumar Biswas was the owner of land measuring 57 decimals within plot No.189 at Mouza Duttapukur, J.L. No.122, Police Station Barasat, District 24-Parganas (North) by way of purchase vide Deed No.8860 of 1959 from the recorded owner. After the demise of said Jayanta Kumar Biswas on 4th January, 1999 the petitioners being the wife, son and daughter inherited the property left by their predecessor-in-interest. It is contended that the subject land was duly recorded in the name of the petitioners. The land-in-question was requisitioned under Section 3 of West Bengal Land (Requisition and

Acquisition) Act, 1948 (hereinafter referred to as 'Act of 1948'), but was never acquired. The Act of 1948 has lapsed. However, the authority concerned did not release the land in favour of the petitioners. The petitioners made a representation through their learned Advocate on 19th December, 2022 for releasing of the said land-in-question. Since such prayer of the petitioners was not considered, hence this writ petition.

At the outset, Mr. Md. Ali Mansoor, learned Advocate for the petitioners submits that he does not intend to file any supplementary affidavit in terms of order dated 25th April, 2024.

During course of hearing he submits that record-of-rights has not been issued in favour of the petitioners. He also submits that the petitioners' predecessor-in-interest was the owner of the land-in-question. The land was requisitioned under Section 3 of the Act of 1948. Such notification has lapsed and, therefore, the authority under the law is obligated to release the land in favour of the petitioners. However, the land-in-question has not been released in favour of the petitioners in spite of repeated persuasion. He seeks for issuance of appropriate direction upon respondents for release of the land-in-question in favour of the petitioners.

In reply to the contentions raised on behalf of the petitioners, Mr. Subhasis Bandyopadhyay, learned Advocate for the State-respondents submits that there is no merit in the writ petition since the averments made

therein is not supported by documents. He seeks for dismissal of the writ petition.

In ground no.VII of the writ petition, it is asserted by petitioners that despite the land-in-question being duly recorded in the name of the petitioners, the authority did not release the land in their favour. However, it is relevant to note that such statement is not supported by any record-of-rights issued by the authority in favour the petitioners. The learned Advocate for the petitioners during hearing admits that there is no such record-of-rights in favour of the petitioners. Thus, it appears that the writ petitioners have made a palpable wrong statement in the ground of the writ petition asserting their right over the land-in-question on the basis of record-of-rights.

In aforesaid backdrop, the writ petition being **WPA 5479 of 2023** stands dismissed.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)