

21.11.2024
Item No.11
gd/ssd

WPA/5304/2018
ASHUTOSH MAITY & ORS.
VS
STATE OF WEST BENGAL & ORS.

Mr. Amit Ranjan Pati,
Ms. S. Chowdhury
..for the Petitioners.

Mr. Jahar Lal De,
Ms. Smita Das Dey
..for the State.

Ms. Riya Ghosh
..for the Respondent Nos.8 to 11.

1. The petitioners had filed this writ petition alleging that certain people are preventing the villagers from cremating the deceased people in the locality in a land which has been classified as Shamshan.

2. On the last occasion when the matter was heard, a direction was issued on 26.09.2024 directing the Block Land and Land Reforms Officer to conduct an inspection of the plot earmarked the boundaries which continues to be classified as Cemetery and submit a report before this court.

3. Accordingly, a report has been submitted by the Block Land and Land Reforms Officer dated 19.11.2024 and the operative portion of the report as follows:

“(1) As per L.R. R-O-R the total area of LR Plot being no. 2730 (corresponding to R. S Plot no2030/2964) is 0.70 acre and classification of plot is ‘Shamshan’.

(2) At present approximately 0.3295 acre of land has been surrounded with a boundary wall and there is a pucca structure (presently used by the Christian community) and it was converted to Bastu being conversion case no. 2/15.

(3) That rest approximately 0.3705 acre of land is lying vacant including 0.08 acre (approx.) of land which is presently used as kachha road by the villagers.

(4) That the said vacant land was utilized as ‘Shamshan’ and as per statement of the local people last cremation was taken place in the year of 2018. During field enquiry there is no sign has been traced out at present regarding utilization of the subject land as Shamshan.”

4. Thus, from the above report it is seen that a portion of the land has been surrounded by a boundary wall and has been presently used by the Christian community and that was converted into Bastu by an order passed in the year of 2015. The remaining extent is stated to be lying vacant including a portion which is used as kachha road by the villagers. Further, in the report states that vacant land was utilized as ‘Shamshan’ and as per statement of the local people and the last cremation took place in the year 2018 and during field enquiry, there is no sign that at present the land has been used as a Shamshan.

5. In the light of the report drawn by the Block Land and Land Reforms Officer, unless the order of conversion of a portion of the land to Bastu is set aside,

the question of issuing a direction would not arise.. Further, if the land continues to be classified as Shamshan, then obviously the people of the locality who will be entitled to utilize the same for cremation purpose.

6. However, taking note of the fact that after 2018 the land has not been utilized for cremation purposes, issuing any direction at this juncture will create local problem which will not be conducive to the public.

7. Hence, the writ petition stands dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)