

D/L.2.
March 14, 2024.
MNS.

WPA No. 7702 of 2024

Jane Alam Sk. And others
Vs.
The State of West Bengal and others

Mr. Biswaroop Bhattacharya,
Mr. Ayan Chakraborty,
Ms. Sohini Mukherjee,
Mr. Subhajit Saha,
Ms. Debjani Kundu

... for the petitioners.

SI Md. Galib,
Ms. Sujata Mukherjee

...for the State.

Mr. Uttam Kumar Bhattacharya

...for the respondent no. 7.

Mr. Robiul Islam.
Mr. Jayed Hassan

...for the respondent no. 8.

1. Affidavit-of-service filed in Court today be kept on record.
2. The petitioners challenge an order passed by the appellate authority under the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 (in short "1962 Act").
3. Learned counsel for the petitioners contends that pursuant to a direction of this Court for the authority to ascertain first whether there is any illegal encroachment and thereafter to take due proceedings in law, a notice was

served, which was not a valid notice under Section 3 of the relevant Statute. Proper grounds were not given in the said notice.

4. Hence, it is argued that the same could not be construed as a show-cause notice under the said Statute.
5. It is argued that the said issue was not considered by either of the fora below.
6. Accordingly, it is submitted that the entire orders of both the fora are vitiated in law.
7. However, a bare perusal of the order no. 2 dated November 3, 2023 passed by the District Magistrate, Purba Medinipur, that is the first authority, shows that notices were duly served upon the petitioners and respondents and service returns were filed with the case records.
8. Since the petitioners were aware of the direction of this court and subsequently appeared in the proceedings before the District Magistrate and were heard sufficiently, the petitioners cannot now come up to say that no proper notice was served under Section 3 of the 1962 Act.
9. More importantly, it is clearly recorded in the order of the appellate authority that the appellants admitted that they were unauthorised occupants on the suit land and

they also submitted that they were not allowed opportunity to attend field enquiry. It was recorded that representative of the District Magistrate, Purba Medinipur, submitted that all the parties attended the field enquiry as per the BL&LRO's report. Learned counsel for the private respondent, it was recorded by the appellate authority, also pleaded that the report of the BL&LRO revealed that notices were duly served to both parties and both parties were present in field enquiry on March 19, 2022.

10. Since both the fora have held against the present contention of the petitioners that no notice was served and that the petitioners were not present in the field enquiry, a presumption of correctness is attached to such official/ judicial act under Section 114 of the Indian Evidence Act, 1872.

11. I do not find any reason for this court to upset the concurrent findings of both the fora below.

12. Hence, there is no scope of unnecessary interference with the discretion exercised judicially by both the fora below.

13. Accordingly, WPA No. 7702 of 2024 is dismissed on contest.

14. However, since learned counsel for the petitioners, after the matter is over, submits

that more than sixty families will be ousted overnight (which is disputed by the respondents), on humanitarian grounds, the authorities shall hold their hands insofar as the implementation of the orders of both the fora are concerned for seven days from date.

15. In the event the petitioners do not vacate the premises within the said period and/or obtain an order from any superior court, there will be no fetter on the respondents to implement the orders which are impugned and sustained in the writ petition.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)