

22.11.2024
Sl. No. 11.
D/L.
Mithun
Ct.No.39.

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

WPA 11945 of 2023

**Laxmi Kanta Sahoo
Vs.
The State of West Bengal & Ors.**

Mr.Nilanjan Bhattacharjee,
Mr. Abhilash Chatterjee,
Mr. Saikat Dey

..for the petitioner.

Mr.K.C.Das,
Sk. Sahjan Ali

...for respondent no.8.

Mr. Jahar Lal De,
Mr. Suddhadev Adak,
Ms. Debarati Sen (Bose)

...for the State.

This writ petition has been filed seeking direction for demolition of unauthorized construction by private respondent over the land situated at L.R. Dag No.116 corresponding to L.R. Khatian No.184, J.L. No.241, Mouza: Krishna Nagar, Patashpur, District: Purba Medinipur.

The petitioner's case in nutshell is that the petitioner along with private respondent no.8 and others are the co-sharers in respect of the piece of land morefully described in Paragraph no.3 of the writ petition. The petitioner filed a civil suit for declaration and partition before learned Civil Judge (Senior Division), 1st Court at Contai being Title Suit No.167 of 2023. In the said suit an application under Order 39

Rule 1 and 2 of the Code of Civil Procedure was filed in which the parties were directed to maintain *status quo* in respect of nature, character and possession over the joint properties. The petitioner contends that there has been illegal and unauthorized construction over plot no.116 without converting the nature of the property which is recorded as a 'Doba'. The petitioner made several representations before the BL & LRO, Patashpur-II, Purba Medinipur. However, no steps were taken. Hence, this writ petition.

Mr. Nilanjan Bhattacharjee, learned Advocate appearing for the petitioner submits that the private respondent no.8 without seeking for conversion has started construction over plot no.116 illegally and unauthorizedly. The present writ petition has been filed for removal and/or demolition of such unauthorized construction. Time and again, the petitioner has approached the BL & LRO Patashpur-II, Purba Medinipur and Anchal Pradhan, Purba Medinipur for redressal of his grievance. However, no steps have been taken by the authorities concerned. He seeks for appropriate orders.

On the contrary, Mr. K.C. Das, learned Advocate appearing for private respondent no.8 submits that the report filed by the State authorities clearly divulge that there is no such work of construction over plot no.116. The entire dispute is civil in nature. The petitioner ought to have approached the Civil Court if at all there

was any violation by the co-sharer, respondent no.8. In light of his aforesaid submission, he prays for dismissal of the writ petition.

Mr. Jahar Lal De, learned Advocate for the State respondents submits that the report of the BL & LRO, Patashpur-II, Purba Medinipur would show that the plot no.116 though classified as *Doba* is at present is a highland and two full grown mango trees are conspicuous. Plot no.116 and plot no.113 are adjoining plots. Save and except a pucca toilet constructed under Government Scheme (*'Paribarik Sauchagar Nirman'*), there is no other construction over plot no.116.

It is not in dispute that a civil suit for declaration and partition has been filed by the petitioner being Title Suit No.167 of 2023 before the Court of Civil Judge (Senior Division), 1st Court at Contai wherein a *status quo* order has been passed. It is informed by the learned Advocate for the petitioner that the petitioner has not filed any application before the Civil Court contending of any illegal or unauthorized construction in plot no.116 by the private respondent no.8. The entire dispute as raised in the present writ petition is civil in nature. Whether any work of construction has been undertaken over plot no.116 by the respondents, who are admittedly co-sharers, is disputed facts which requires adjudication by the Civil Court upon taking evidence. Such being the position, I do not find any merit in the writ petition.

Accordingly, the writ petition being **WPA 11945 of 2023** stands dismissed.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

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

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

(Bivas Pattanayak, J.)