

04. 11.2024

Sl.No. 7
Ct.No. 32
Amalranjan

ASSIGNED MATTER

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14560 of 2023

Kalipada Sahoo
Vs.
The State of West Bengal and ors.

Mr. Mrinal Kanti Ghosh
Mr. Chandra Nath Sarkar
...for the petitioner
Mrs. Usha Maiti
Mr. Sakya Maity
...for the private respondent no. 8
Mr. Jahar Datta
Md. Ziaur Rahaman
...for the State

1. No exception has filed by the private respondent no. 8, despite giving opportunity.
2. Heard all the parties present today.
3. It is the allegation of the writ petitioner that the private respondent no. 8 namely, Sudhangsu Sahoo is the co-sharer in respect of the land being L.R. plot no. 1231 & 1232 within Mouza Mirzabazar and LR plot no. 573 & 579 within Mouza Tantigeria both of under Kotwali PS, District Paschim Medinipur. The petitioner already filed a Title Suit being TS No. 414 of 2007 before the learned Civil Judge (Senior Division), 1st Court, Paschim Medinipur as the private respondent started

illegal and unauthorized construction in the plots in question without any approval from the competent authority.

4. It is further submitted by learned counsel appearing on behalf of the petitioner that an interim order was passed by the trial court in the said Title Suit in favour of the plaintiff directing both the parties to maintain status quo in respect of the nature and character of the suit property till disposal of the suit on 16.09.2009.
5. Feeling aggrieved by and dissatisfied with the said interim order, the private respondent no. 8/defendant has filed a Misc. Appeal no. 122 of 2009 arising out of aforesaid title suit being no. 414/2007. The appellate court, however, allowed the Misc. appeal and set aside the order passed by the learned trial court dated 16.09.2009.
6. Being aggrieved by the said order, the writ petitioner/plaintiff has preferred a revisional application being C.O no. 3368 of 2010 before the Hon'ble High Court at Calcutta. After hearing the parties, the Hon'ble High Court was pleased to uphold the order of interim order as passed by the learned trial court on 27.03.2015 and restored the same.

7. The said interim order of status quo still exists.

In spite of such status quo order, the private respondent no. 8 has made an illegal unauthorized construction over the disputed land violating the order of learned trial court, which has been disputed by the private respondent no. 8 and submitted that the construction was made in the year 2004 after obtaining sanctioned plan from the competent authority. It is also conceded that no further construction has been made thereafter over the disputed land in question.

8. The Civil Suit is pending between the parties over the disputed land. At the same, a time representation has been made by the petitioner before the Chairman, Medinipur Municipality on 3rd March, 2017 intimating illegal for further construction on the land made without sanctioned plan, but the same is not been considered by the Municipality till date.

9. The concerned Municipal Authority has also not represented today, no accommodation sought for.

10. In view of the above facts and circumstances, it would be proper to dispose of the writ application with a direction to the appropriate authority i.e., the respondent no. 5 to consider

the representation i.e., annexure 5 annexed to the writ application within a period of 4 weeks from the date of communication of this order and passed a reasoned order thereof after affording sufficient opportunity of hearing of the interested parties including the private respondents. The reasoned order thereof be communicated to the parties within one week thereafter.

11. Since no affidavit exchanged between the parties or invited, the allegations contained in the writ petition are deemed not to be admitted.

12. In view of the observations made above, the instant writ petition being **WPA 14560 of 2023** is, thus, disposed of without any order as to costs.

13. Urgent Photostat certified copy of this order, if applied for, is to be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)