

15.07.2024
Court No.09
Item no.17
CP

WPA No. 15967 of 2024

Kanika Giri
Vs.
The State of West Bengal & ors.

Mr. Pappu Adhikari
....for the petitioner.

Mr. Joydip Banerjee
Mr. Sanjay Mukherjee
....for the State.

Mr. Ritwik Pattanayak
.....for the respondent nos. 5 & 6.

Mr. S.P. Pahari
Mr. Tapan Kr. Mahapatra
....for the respondent no. 7.

The writ petition is disposed of with a direction upon the Director of Fisheries to decide the application of the petitioner for change of ownership of the boat as per the order passed by this court earlier, in WPA No.11801 of 2022. The allegation in the earlier writ petition was that the Department of Fisheries, Government of West Bengal had failed to pass necessary orders permitting change of ownership of the fishing boat of the petitioner. The respondent no. 7 was the owner of the boat. The respondent no. 7 defaulted in payment of the instalments against the loan. The boat was hypothecated to the cooperative bank. The boat was

sold to the petitioner and the bank requested the department to record the change of ownership in favour of the petitioner. The respondent no. 7 had raised an objection that the boat was not sold in public auction, but by way of an underhand dealing.

Accordingly, the writ petition was disposed of with a direction upon the Directorate of Fisheries, Government of West Bengal to treat the writ petition as a representation and decide the same upon hearing all the interested parties.

It is also submitted that an order was passed by the Director of Fisheries, inter alia, holding that until the writ petition challenging the sale proceeding was disposed of and the sale was held to be proper, the question of change of ownership would not arise. The respondent No.7 filed a writ petition challenging the sale. It is informed to the court that the writ petition was dismissed, by relegating the petitioner to an alternative forum. The petitioner approached the appeal court and the appeal court refused to set aside the order impugned, but held that the SARFAESI Act would not be applicable. The appeal was dismissed with costs of Rs.20,000/- and the petitioner was relegated to any other alternative remedy.

The order of the Appeal Court subsists. The sale has not been held to be bad in law. The order of this court in WP 11801 of 2022 also remains unchallenged. The Director of Fisheries had been asked to decide the issue of change of ownership in accordance with law. The said order shall be complied with by the authority and necessary orders shall be passed upon hearing all the parties within a month from communication of this order.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)