

107 24.6.2024
Sc Ct. no.2

WPA 15524 OF 2023

Pradip Dingal

Vs.

State of West Bengal & Ors.

Mr. Biswajit Sau
Mr. Sohhom Sau

....For the Petitioners

Mr. Tapas Adhikari
Mr. Arindam Mitra.

..For the Respondent
State

Mr. Tamal Taru Panda
Mr. Safik Dewan.

....For the Respondent
Nos. 3 & 4

Affidavit-of-service, filed in Court today, is taken on record.

The petitioner has filed this writ petition with two-fold prayers.

Firstly, to correct the **Record of Rights** in respect of the land of the petitioner on which he is allegedly claiming right, title and interest pursuant to a registered title document dated **March 18, 2015, Annexure-P1 at page 11** to the writ petition. **Secondly**, the petitioner claims sanctioned plan for construction over and above his land.

Referring to **Annexure-P7 at page 34** to the writ petition, the petitioner submits that, he has already applied by submitting the statutory form for obtaining the sanctioned plan but the Pradhan of the concerned

Panchayat, the respondent no.4 herein has not considered the same and has not granted the sanctioned plan.

Mr. Biswajit Sau, learned counsel appearing for the petitioner referring to a Civil Court **Decree** dated **April 1, 1977** at **page 26** to the writ petition submits that, the vendor of the petitioner's land had title over the same land and then the said vendor transferred and sold the same in favour of the petitioner, therefore, the petitioner holds a valid and lawful title over and above the said land in respect whereof he claims for correction of **Record of Rights**.

Mr. Safik Dewan, learned advocate appears for the respondent nos. 3 and 4.

Mr. Tapas Kumar Adhikari, learned counsel appears for the respondent nos.1, 2 and 5.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record, this Court is of the view that, at the threshold the relevant **Record of Rights** is required to be corrected by incorporating the name of the petitioner, as claimed in **prayer (a)** to the writ petition and then the next step shall be, to consider **prayer (b)** to the writ petition.

In view of the above, the respondent no.5 is directed, upon issuing a prior hearing notice of at least **seven days** to the petitioner and after granting an opportunity of hearing to him, to decide the

representations of the petitioner dated **March 5, 2018** and **May 12, 2015, Annexure-P6 at pages 31 to 33** to the writ petition by passing a reasoned order.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.5 positively within a period of **six weeks** from the date of communication of this order. The respondent no.5 then shall communicate its reasoned order to the petitioner positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim with regard to correction of **Record of Rights** as claimed by the petitioner in any manner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the respondent no.5 but **his claim shall not travel beyond the correction of Record of Rights.**

If the reasoned order goes in favour of the petitioner and the **Record of Rights** is rectified in favour of the petitioner, the respondent no.5 shall immediately take all necessary and consequential steps to correct and rectify the record in accordance with law positively within a period of **two weeks** from the date of the said reasoned order to be passed.

In the event the reasoned order to be passed by the respondent no.5 goes in favour of the petitioner for

correcting the **Record of Rights** then the petitioner shall forward a copy of the said reasoned order before the respondent no.4, the Pradhan of the concerned Panchayat and the Pradhan then after granting an opportunity of hearing to the petitioner shall consider his application for obtaining the sanctioned plan, **Annexure-P7 at page 34** to the writ petition by passing a reasoned decision strictly in accordance with law.

The exercise shall have to be carried out by the Pradhan of the concerned Panchayat positively within a period of **six weeks** from the date of receiving a copy of the reasoned order to be passed by the respondent no.5 from the petitioner as indicated above.

It is made clear that, this Court has also not gone into the merits of the claim of the petitioner insofar as obtaining the sanctioned plan for the proposed building is concerned in terms of **prayer (b)** to the writ petition and the same shall be decided by the Pradhan of the concerned Panchayat in the manner as directed above.

It is made clear that, this order shall not create any right or equity in favour of the petitioner in both the situations, if the petitioner is not eligible to receive his claim for correction of **Record of Rights** before the respondent no.5 and thereafter if the petitioner is found to be ineligible to receive his claim for obtaining the **sanctioned plan** as applied before the Pradhan of the concerned Panchayat strictly in accordance with law.

Nothing further remains to be adjudicated upon in this writ petition.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

The petitioner shall serve a copy of this order upon the jurisdictional **Block Development Officer** to ensure that, the direction of this Court is complied with and carried out by the Pradhan of the concerned Panchayat, if situation so arises, as indicated above.

With the above observations and directions this writ petition, **WPA 15524 of 2023** stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)