

29.08.2024
Item No.62
PG/KS
Ct. No.1

W.P.A.(P) 332 of 2022
With
IA No. CAN 2 of 2022
Uttam Samanta & Ors.
Versus
The State of West Bengal & Ors.

Mr. Rabindra Narayan Dutta
Mr. Arkoday Mukherjee
Mr. Soham Banerjee

.....For the Petitioners

Mr. Amitesh Banerjee, Ld. Sr. Standing Counsel
Mr. Ipsita Banerjee

..... For the State

Mr. Shounak Ghosh
Mr. Sourav Mondal

.....For the Private Respondent

1. By way of this writ petition, filed as a public interest litigation, the petitioners allege that certain extent of land, which was originally earmarked for a Mandir and a Mela Ground has been illegally encroached, constructions have been put up etc.
2. Pursuant to the directions issued earlier, a report has been filed by the respondent no.5. In paragraph 3 of the report, it has been stated as follows:-

“iii. With regard to LR Plot No.170 it is recorded within column no13 of LR Khatian No66 that the place would be used for the purpose of worship of Manasa deity by the people belonging to the Hindu community. Similarly, there is a noting recorded within column no13 of the said LR Khatian with regard to the LR Plot No172 that the same would be used for people of the Hindu community as a fair ground/gathering place to offer worship before Goddess Manasa.”

3. The petitioners have filed an exception to the report in which they have taken the following stand:-

“4) That R. S. Plot No.116 and 117 under Khatian No.14 as annexed with our writ application being ‘Annexure – P/ shows

that the R. S. Plot No. 116 and 117 originally belong to the then Jamindar, Jawaharlal Mukhopadhyay and others right from C. S. Record and the said Jamindar, Mukherjee Brothers settled the said 2 plots measuring 7 decimal and 57 decimal at Mouza- Kulut in favour of Devi Deity and for the Hindu people for Om Devi MaaManosa and its' Mela Ground and the Hindu people of the area and other general public of other villages are enjoying the said 2 plots wherein there is ancient Mandir and its' Mela Ground and the Hindu community as well as the people from other communities are performing the daily seba puja of goddess MaaManosa and also performing periodical festival of the said Goodess and the details of the same has already been mentioned in the writ application. In the report as filed on behalf of Respondent no.5 does not reflect the aforesaid true picture and also does not reflect the original C. S. record."

4. Thus, it is clear that the matter requires examination of facts, much of which is being disputed. However, what is clear from the report of the respondent no.5 is that a place has been used for the purpose of worship of Manasa deity by the people belonging to the Hindu community that has been recorded. Further, in the report, the respondent no.5 has stated that the writ petitioners could not produce any deed of trust or any other registered instrument to establish the fact that the land is a debottar property.
5. The learned advocate for the petitioners submitted that the enquiry is improper, documents have not been considered, more particularly, the CS Record. Thus, we cannot adjudicate into the disputed questions of fact and all that we can do is to send the matter back to the appropriate authority to establish the rights, which are being claimed by the petitioners to have been used by the people of the Hindu community.

6. Needless to state that de hors this dispute and/or controversy, if there is any illegal construction in the area, action has to be taken by the authorities concerned and they cannot take shelter in the order passed in this writ petition.
7. Accordingly, there will be a direction to the 10th respondent to constitute a team of officers and conduct an inspection of the entire area to ascertain whether any illegal construction has been put up by either petitioners or any third party and if found so, appropriate action be taken in accordance with law.
8. With the aforesaid observations, the writ petition is disposed of.
9. No costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)