

02
04.07.2024
Mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 19385 of 2022
with
IA No. C.A.N. 1 of 2024
with
C.A.N. 2 of 2024
with
C.A.N. 3 of 2024

Basudev Naskar & Anr.
Vs.
State of West Bengal & Ors.

Mr. Rudranil De,
Mr. Shantimoy Bhattacharyya,
Mr. Ziaul Haque,
Mr. Himadri Kumar Mahata
...for the petitioners

Mr. Chandi Charan De, Ld. AGP,
Mr. Anirban Sarkar
...for the State

Mr. Md. Zeeshanuz Zaman
...for the private respondents

In view of the formal reliefs sought for in C.A.N. 1 of 2024, C.A.N. 2 of 2024 and C.A.N. 3 of 2024, the same stand allowed. The Department is directed to take necessary steps.

This is a petition challenging an order dated December 30, 2021 whereby the Block Development Officer, Gosaba Development Block, has directed both the petitioners and the private respondents as well as the State respondents “to

keep the present status of the drain intact i.e. neither the petitioner would fill up any part of the drain to obstruct the water pass, nor the private respondents are allowed to take up any renovation or expansion work of the drain.”

The petitioners assail the above order primarily on the ground that though the order records that the drain is on the land of the petitioners, the same fails to provide for any measures to exclude the drain from the land of the petitioners and grant the petitioners an equivalent area of land. Hence, the petitioners seek directions to fill up the alleged drain and use the land as that of the petitioners. Alternatively, the petitioners also seek directions to demarcate the said *khal*/drain and compensate the petitioners with equivalent land.

On behalf of the private respondents it is submitted that, the above drain serves the entire village and has been in existence for more than fifty years. It is also submitted that the petitioners are in a circuitous manner seeking reliefs which would require correction of land records which is impermissible.

On behalf of the State respondents it is submitted that, the writ petition is not maintainable and the reliefs sought for cannot be granted by this Court.

The impugned order dated December 30, 2021 is adequately reasoned. In passing the impugned order, the Block Development Officer has considered the entire factual situation and after causing an inspection found that the subject drain falls under the *patta*, which belongs to the petitioners. The Report submitted to the Block Development Officer, Gosaba also states that the said drain is essential to the inhabitants in the low lying area.

In such circumstances, there are no grounds which warrant interference with the impugned order. The petitioner is seeking indirectly to do what is not permissible directly. There is also a statutory bar under the West Bengal Land Reforms Act, 1955 and the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.

In view of the above, W.P.A. No. 19385 of 2022 stands dismissed.

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

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of necessary formalities.

(Ravi Krishan Kapur, J.)