

05.08.2024
Sl. No.1(ML)
srm

W.P.A. No. 20431 of 2022
Satadal Murmu
Versus
The State of West Bengal & Ors.

Mr. Amitava Chaudhuri,
Mr. Asif Dewan,
Mr. N. Roy,
Mr. Pradipta Siddhanta
...for the Petitioner.

Mrs. Rupsha Chakraborty
...for the State-respondents.

1. Affidavit-of-service is taken on record.
2. The petitioner is a tribal who wishes to sell his flat to a non-tribal. Accordingly, the petitioner approached the respondents for permission. The petitioner alleges that such permission has not yet been granted and the petitioner is waiting since long. The delay is causing loss to the petitioner.
3. Learned Advocate for the State-respondents has filed instructions received from the District Magistrate, Howrah. The instruction is taken on record. It appears that the District Magistrate, Howrah has already forwarded the matter to the Principal Secretary, Tribal Development Department, Government of West Bengal on May 23, 2022, for clarification.

4. The authority requested the Principal Secretary, Tribal Development Department to issue a clarification as to whether the sale of flat of the petitioner and similarly situated persons who were engaged in government services was barred under any law relating to tribal welfare. The District Magistrate, Howrah was of the opinion that although sale of tribal land was restricted by law, the sale of flats and apartments were not, unless the sale was a distress sale by a tribal to a non-tribunal person, made under dire financial hardship.
5. Having considered the communication, this Court is of the view that the Principal Secretary, Tribal Development Department, Government of West Bengal, must take steps with regard to the clarification asked for by the District Magistrate, Howrah so that the petitioner's deed may be prepared and registered.
6. The petitioner is granted liberty to approach the Principal Secretary, Tribal Development Department, Government of West Bengal with a server copy of this order within ten days from date. The Principal Secretary, Tribal Development Department, Government of West Bengal, shall consider the matter and provide necessary clarifications and instructions, as sought for by the District Magistrate, Howrah, within a month from receipt of such order.

7. Needless to mention, if there is no law or a policy barring such sale, necessary permission shall be granted.
8. A copy of the communication of the District Magistrate, Howrah shall be handed over to the learned Advocate-on-record for the petitioner for necessary action.
9. The writ petition is, thus, disposed of.
10. There shall be no order as to costs.
11. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)