

24.07.2024

DL-17

(Dd)

FMA 99 of 2023

with

I.A NO: CAN 2 of 2022

with

I.A NO: CAN 3 of 2022

Murtaza Ali

Vs.

The State of West Bengal & Ors.

Ms. Aiswarjya Gupta, Advocate

... .. For the Appellant

Mr. Subrata Karmakar,

Md. Ali Ahasan, Advocates

... .. For the private respondents

1. CAN 2 of 2022 and CAN 3 of 2022 are applications by which, the appellant who was the writ petitioner, seeks various reliefs.

2. Private respondents are represented.

3. The appeal is directed against the order dated April 13, 2022 passed in WPA 14004 of 2021 by which, the writ petition was dismissed.

4. It is submitted at the Bar that the appeal can be taken up for final hearing as all papers used before the learned Single Judge are available.

5. In such circumstances, the appeal is taken up for final hearing.

6. Learned advocate appearing for the appellant submits that the appellant is a landless labourer and that, appellant is entitled to protection under the provisions of the West Bengal Acquisition of Homestead Lands for Agricultural Labourers, Artisans and

Fishermen Act, 1975. As a landless labourer, name of the appellant was recorded in the Record of Rights in respect of Plot No. 4818. In support of such contention, she draws the attention of the Court to the relevant documents of Record of Rights. She submits that, appellant being in possession of such plot, as appearing from the Record of Rights is entitled to make necessary construction thereat. Private respondents are preventing such construction being made. She submits that the learned Single Judge erred in dismissing the writ petition.

7. Learned advocate appearing for the private respondents submits that, the private respondents are also in possession of such plot. He submits that, there are proceedings pending before the District Land and Land Reforms Officer under the provisions of Section 19 of the Act of 1975. Therefore, he submits that no relief should be granted to the appellant.

8. As on date, the name of the appellant before us appears in the Record of Rights in respect of Plot No. 4818.

9. Till such time, the Record of Rights is corrected, the appellant before us is deemed to be in possession of such plot in question.

10. There are proceedings pending under the Act of 1975. There is also another document showing that, the authorities prevented the appellant from transferring the property in question. As noted above, till such time, the Record of Rights are altered in a proceeding in law, appellant is required to be recognized in possession of such plot.

11. As on date, since the name of the appellant appears in the plot concerned, appellant is at liberty to

make necessary construction thereon, again, in accordance with law.

12. Learned advocate appearing for the private respondents, in his usual fairness submits that, private respondents are not opposing any construction to be made in the plot concerned by the petitioner.

13. We clarify that we did not pronounce on the right, title and interest of any of the parties in respect of the plot concerned.

14. Parties are at liberty to raise their respective grievances before the appropriate forum.

15. In such circumstances, we set aside the impugned order and allow FMA 99 of 2023 along with all connected applications.

16. There shall be no order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)