

19.11.2024

Item Nos. 9 & 10

Crt.No.02

b.r.

WPA 22180 of 2023

Lakshman Chandra Mallick

-vs-

The State of West Bengal & Ors.

With

WPA 12715 of 2023

Sri Sri Jagannath Ashram

-vs-

The State of West Bengal & Ors.

Mr. Swarup Banerjee

Mr. Sajal Kumar Ghosh

Mr. Subham Biswas

**.... For the petitioner in WPA 22180 of
2023**

Mr. Balailal Sahoo

Mr. Pradip Kumar Das

**... for the petitioner in WPA 12715 of
2023 and Resp. nos. 10 and 11 in WPA 22180 of
2023.**

Mr. Chandi Charan De, Ld. AGP

Mr. Anirban Sarkar

**.... For the State in WPA 22180 of
2023.**

Mr. Ashim Kumar Ganguly, Ld. AGP

Ms. Jyotsna Roy Mukherjee

**.... For the State in WPA 12715 of
2023.**

In Re: WPA 22180 of 2023.

Mr. Swarup Banerjee, learned advocate
appears for the petitioner.

Mr. Chandi Charan De, learned Additional
Government Pleader appears for the respondent
nos. 1 to 9.

Mr. Balailal Sahoo, learned advocate appears
for the respondent nos. 10 and 11.

Pursuant to the direction made by this Court on **November 4, 2024**, Mr. Chandi Charan De, learned Additional Government Pleader today files a report dated **November 14, 2024** issued under the seal and signature of the Officer-in-Charge, Bhagwanpur Police Station, the same is taken on record. Copy has already been served upon the learned advocate-on-record for the petitioner.

The principal prayer in the writ petition is quoted below:-

“a) A writ of and/or writs in the nature of Mandamus do issue commanding the Respondents Authorities to consider Petitioner’s representation dated 24th July, 2023 and 11th May, 2023 pursuant to the Order dated 17th March, 2023 passed by the Hon’ble Justice Rajasekhar Mantha in Writ Petition being W.P.A. No. 12537 of 2021 (Lakshman Chandra Mallick –Vs- The State of West Bengal & Others) being annexure “p-5”and “P-6” hereto.”

In terms of the direction of this Court, a joint Minute was drawn up after causing a physical inspection on the subject land. The petitioner was present in the said joint meeting and has signed the Minute. The said Minute is appended to the said report as **Annexure-A1**. The Minute records that during physical inspection, no Chariot

(Rath) of Jagannath Ashram was found over the said question land being at **Mouza-Nunhanda, J.L. No. 117, Plot No. 385, Bhagwanpur Police Station.**

In view of the above, nothing further survives in this writ petition and no further order can be passed.

With the above observation, this writ petition, **WPA 22180 of 2023** stands **disposed of**, without any order as to costs.

In Re: WPA 12715 of 2023.

Mr. Balailal Sahoo, learned advocate appears for the petitioner.

Mr. Swarup Banerjee, learned advocate appears for the private respondent no.9.

Mr. Ashim Kumar Ganguly, learned Additional Government Pleader appears for the respondent nos. 1 to 8.

Learned Additional Government Pleader files a report in the form of affidavit affirmed on **November 12, 2024** on behalf of the respondent no.4, the same is taken on record. Copy has already been served upon the petitioner and also upon the learned advocate-on-record for the private respondent no.9.

The principal prayer in the writ petition is quoted below:-

“a) A Writ of Mandamus or a Writ in the nature thereof directing the Assistant Engineer, Public Works Department, District Purba Medinipur, being the respondent No.5 herein, to remove the construction made over Plot no. 385 which belongs to Public Works Department upon due consideration of the application made which are at Annexure “P-8” to this petition within the time as may be specified by this Hon’ble Court.”

The report submitted by the State-respondents, *inter alia*, shows that the subject land is of Public Works Department (PWD), which is in issue in the writ petition. The private respondent no.9 claims a Patta over the land **since 1979** and for cancellation of Patta a proceeding has been initiated by the writ petitioner being **Patta Case No. 52 of 2019** pending before the jurisdictional Sub-Divisional Officer, Egra, the respondent no.3 herein.

Referring to the averments made in **Paragraph-13** from the said report, learned Additional Government Pleader submits that the said grant of Patta was totally illegal and cannot be sustained in law.

The private respondent no.9 disputes and denies the submissions made on behalf of the State and he also denies the submissions made on behalf of the petitioner.

After considering the rival contentions of the parties and upon perusal the reliefs claimed in the writ petition and the statements made in the report filed by the State today, it appears that since the proceeding for annulment of Patta is pending as referred to above, this Court shall not pass any further order in this writ petition, as there is no scope for the same.

The jurisdictional authority shall go into a detailed fact finding enquiry and then after applying the applicable law shall decide the Patta case. The respondent no.9 submits that this is the second Patta case filed by the writ petitioner. The first Patta case filed by the writ petitioner praying for annulment of Patta granted in favour of the respondent no.9 was rejected up to the stage of appeal.

Be that as it may, this Court shall not go into all these questions and all these questions shall be kept open for the parties to urge in the pending Patta case before the jurisdictional Sub-Divisional Officer, as referred to above.

It is also made clear that while deciding the said pending Patta case, the jurisdictional Sub-Divisional Officer shall not be influenced by any observation made by this Court. The parties shall be at liberty to urge all their respective points by relying upon whatever records and documents they shall rely upon in the said pending Patta case before the jurisdictional Sub-Divisional Officer. The jurisdictional Sub-Divisional Officer shall take all endeavour to complete and dispose of the said **Patta Case No. 52 of 2019** after affording an opportunity of hearing to the parties thereto and by passing a reasoned order in accordance with law preferably within a period of **ten weeks** from the date of communication of this order.

Till the Patta case is disposed of, there shall not be no coercive steps to be taken in respect of the subject land.

It is further made clear that this order shall not create any right or equity in favour of the petitioner or in favour of the private respondent no.9, if they do not succeed to their respective contentions in the pending Patta case strictly in accordance with law.

With the above observations and directions, this writ petition, **WPA 12715 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.)