

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

23 04.12.2024
Sc Ct. no.2

WPA 25025 OF 2023

Asif Ijaz

Vs.

State of West Bengal & Ors.

Mr. Subir Banerjee
Mr. Saudull Abedin
Ms. Chitra Abedin
Ms. Pooja Singh.

.... For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. Srinath Singha Roy.

.... For the Respondents
State

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Subir Banerjee, learned counsel appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned senior State counsel appears for the respondents State.

The petitioner claims that, by virtue of a registered Deed of Conveyance dated **May 29, 2007** the petitioner claims to have purchased the subject plot of land bearing **Dag No.1159, Khatian No.1085, Mouza-Warishpur**. The petitioner complains that, suddenly without due process of law the Forest Department has encroached upon the land of the petitioner by

demolishing and removing the boundary wall and the relevant structure.

Learned counsel for the petitioner submits that, there is no acquisition proceeding neither the land of the petitioner was taken over by the State or vested with the State.

Mr. Soumitra Bandyopadhyay, learned senior State counsel denies and disputes the submission of the petitioner. He files a report dated **December 5, 2023** prepared under the signature of the jurisdictional Divisional Forest Officer, Burdwan Division, the same is taken on record. Copy of the report along with a bunch of documents appended to the report has been served upon the learned counsel for the petitioner in Court today.

Referring to a gazette notification dated **November 11, 1959** from the said bunch of documents learned State counsel submits that, the subject land of the petitioner has already been vested in the Forest Department much prior to the alleged purchase of the land by the petitioner. He then refers to a communication dated **June 16, 2023**, issued by the jurisdictional Forest Officer to the jurisdictional Additional District Magistrate and the District Land & Land Reforms Officer wherefrom it appears that, the subject land has been taken over by the Forest Department and is vested with the Forest Department.

After considering the rival contentions of the parties and upon perusing the records produced by the State today in Court, the respondent no.2 is directed to consider the representation of the petitioner dated **April 12, 2023, Annexure-P5 at page 24** to the writ petition submitted through the learned counsel for the petitioner, after granting an opportunity of hearing to the petitioner and after considering the relevant land record by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no.2 positively within a period of **six weeks** from the date of communication of this order and the reasoned order shall be served upon the petitioner positively within a period of **one week** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties and the parties shall be at liberty to place the relevant records and documents before the respondent no.2 in course of the hearing.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, in the event the petitioner does not succeed to his contention strictly in accordance with law.

In the event the reasoned order confirms that, the subject land belongs to the Forest Department and the

petitioner is an encroacher thereupon then, the respondent no.2 and/or any other appropriate State authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date of the said reasoned order to be passed.

In course of hearing before the respondent no.2, the jurisdictional BL&LRO shall produce the relevant land records for the assistance of the respondent no.2.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 25025 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.)