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02.04.2024
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W.P.A. 27696 of 2022
(Sri Hansraj Dugar & Anr. vs. State of West Bengal & Ors.)

Mr. Srijib Chakraborty
Mr. Sayan Sinha
Mr. Rishabh Dutta Gupta
Ms. Rupsa Sreemani
.... For the Petitioners

Affidavit of service filed on behalf of the petitioners is taken on record.

None appears for the State respondents despite service.

Mr. Chandi Charan De who is present in Court and usually appears for the State is requested to represent the State in this matter along with a junior of his choice. The appointment of Mr. De, learned advocate and Mr. Anirban Sarkar, learned advocate be regularised by the office of the learned Legal Remembrancer. Copy of the writ petition along with annexure thereto be served upon Mr. De in course of the day.

Heard learned counsels for the parties.

It is contended on behalf of the petitioners that the predecessor in interest of the petitioners was the recorded owner of more or less 12 decimals of land in L.R. Plot No. 6, L.R. Khatian No. 94, Mouza Choprajhar Bazar, J. L. No. 60 Police Station-Islampur, District-North Dinajpur and after his demise the petitioners being his legal heirs have inherited the property. The said predecessor in interest as well as the petitioners have been occupying another 10 decimals of land in the same plot within a

common boundary wall as the petitioners' property since long. The petitioners applied before the Government for issuance of long term lease in respect of the said plot of land which is admittedly Government land, on 2nd February, 2022 pursuant to which the Additional Secretary to the Government of West Bengal, by a letter issued to the Additional District Magistrate, District Land and Land Reforms Officer, Uttar Dinajpur on 4th March, 2022 requested the latter to enquire into the prayer and submit a detailed proposal complete with all necessary information and documents, if feasible. A similar letter was issued by the Additional Secretary to the Government of West Bengal on 20th May, 2022. The Additional Secretary, by a letter issued on 22nd September, 2022 requested the Additional District Magistrate to take over possession of the plot in question and display a board therein proclaiming that the land belonged to the Collector and no one should trespass there. By a letter issued on 13th October, 2022, the Block Land and Land Reforms Officer, Islampur, Uttar Dinajpur requested the petitioners to remove all valuables, if any, and structure lying on the plot in question for taking over possession of the plot by the Government. Learned counsel for the petitioners submits that the application made by the petitioners for grant of long term lease was not considered by the authority who arbitrarily decided to take over possession of the land in question without taking recourse to law. According to the learned counsel, even if the Government wants to recover possession of the plot in question which is admittedly occupied by the petitioners since long, the State should take recourse to the West Bengal Public Land (Eviction of Unauthorised

Occupants) Act, 1962 and not proceed to evict the petitioners therefrom illegally and arbitrarily.

Learned counsel for the respondents submits that the application made by the petitioners for grant of long term lease be directed to be considered by the 2nd respondent. Also, since the Block Land and Land Reforms Officer intended to take over possession of the plot in question in 2022, it cannot be ascertained as to whether the plot is still occupied by the petitioners.

In view of the above, this Court is inclined to hold that since the application filed by the petitioners for grant of long term lease is pending before the authority, the concerned authority being the 2nd respondent be directed to consider and dispose of the application within two months from the date of communication of this order upon affording reasonable opportunity of hearing to all concerned including the petitioners, in accordance with law.

The decision taken by the authority shall be communicated to the petitioners within a week thereof.

In the event the application filed by the petitioners is decided in the negative and the plot is still in occupation of the petitioners, the concerned authority shall be at liberty to take necessary steps for eviction of the petitioners from the plot in question, in accordance with law.

Pending disposal of the application no coercive action be taken by the respondents against the petitioners in respect of the plot in question.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)