

01
20.06.2024
KC

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 27776 of 2022
(CAN 1 of 2023)

Smt. Moushumi Barua Roy & Anr.
Vs.
The State of Assam & Ors.

Mr. Apratim Bhattacharya
Mr. J. H. Mallick
Mr. Sagar Chowdhury
...for the petitioner

Mr. Dilip Majumder, Learned AGP
Mr. Azim H. Laskar
Mr. Rajib Borpujari
Mr. Bikash Kar Gupta
...for the respondent nos. 1 to 7

Mr. Rajiv Lall
Mr. Sourav Chaudhury
...for the respondent nos. 8 to 13

The grievance of the petitioners is directed against a communication dated October 10, 2000 issued by the Director of Cultural Affairs, Government of Assam.

It is alleged that by the impugned notice the respondent nos. 1 to 7 are seeking to take possession of private land not belonging to the Government of Assam.

Briefly, in an administration and Partition Suit no. 993 of 1960 pertaining *inter alia* to immovable properties situated at Dhubri, Assam, a preliminary

decree was passed on the basis of a Terms of Settlement as far back as on August 28, 1963.

Admittedly, no final decree has been passed till date and the suit is still pending. However, in the said suit an allotment has been made in favour of the private respondent nos. 8 to 13 in terms of a preliminary decree which forms the subject matter of this petition.

It is alleged that the Department of Cultural Affairs, Government of Assam is seeking to purchase the share of the private respondents by virtue of a negotiated settlement at a price of Rs. 15 crores. In this background, the respondent nos. 1 to 7 had issued the impugned communication intimating the Deputy Commissioner, Dhubri, Assam, a Cabinet decision dated October 7, 2022 whereby the respondent nos. 1 to 7 were taking steps for purchase and development of the land belonging to the Late Pratima Barua Pandey.

In such circumstances, the petitioner had filed the writ petition, *inter alia*, seeking interference with the impugned notice dated October 10, 2022. It is further contended on behalf of the petitioner that despite making representations dated October 28, 2021 and October 17, 2022 respectively, the respondent authorities have not considered the same.

Upon filing of the writ petition by an order dated February 9, 2023, a Coordinate Bench had granted an *ad interim* order of *status quo* in respect of the nature, character and possession of the said premises. Thereafter, the matter has been heard on repeated occasions.

It is submitted on behalf of the respondent nos. 1 to 7 that the interim order is causing severe prejudice and the same be vacated and the writ petition be dismissed on *inter-alia* the ground of jurisdiction. It is further contended that this Court had no territorial jurisdiction to entertain the writ petition. There is no part of the cause of action, which was arisen within the jurisdiction of this Court. The fact that some of the records pertaining to the above Civil Suit are lying within the jurisdiction of this Court does not vest this Court with jurisdiction. It is further submitted that the respondent authorities have duly considered the representation of the petitioner and disposed of the same by a speaking order dated 8 December 2022 and there is no challenge to the same.

On behalf of the petitioner, it is fairly conceded that there are no reasons to interfere with the interim order dated February 9, 2023. The order merely records the facts, the submissions of the parties and directs *status quo* without any reason whatsoever.

It was also submitted on behalf of the petitioner that this matter was Part Heard before another Bench and this Court should not take up this matter. Upon further consideration, this submission made on behalf of the petitioner is fairly withdrawn.

On behalf of the private respondent, it is submitted that this Court has no jurisdiction whatsoever and the interim order should be forthwith vacated and the writ petition dismissed.

On the aspect of jurisdiction, there are no pleadings whatsoever which warrants this Court exercising jurisdiction. In any event, the existence of such records have no bearing on the impugned communication. The fact of a pending partition suit the records of which are lying in this Court cannot clothe this Court with jurisdiction.

The pleading at paragraph 26 of the writ petition is inadequate and insufficient to empower this Court to entertain the petition. The entire cause of action and the grievance of the petitioners pertain to a communication dated October 10, 2022 issued by the Director of Cultural Affairs, Assam which have been issued on authorities outside the jurisdiction of this Court. On a combined reading of the pleadings and the reliefs claimed in this petition there is no part of the cause of action which has arisen within the jurisdiction of this

Court. The parties to the proceedings are also situated outside the jurisdiction of this Court. The subject premises Matiabag Palace is situated at Gauripur Town, Dhubri, Assam is also outside the jurisdiction of this Court. [*ONGC v. Utpal Kumar Basu*, (1994) 4 SCC 711 at para 6, *State of Rajasthan v. Swaika Properties*, (1985) 3 SCC 217 at paras 1, 8-10 and *National Textile Corpn. Ltd. v. Haribox Swalram*, (2004) 9 SCC 786.]

In view of the above, CAN 1 of 2023 as well as WPA 27776 of 2022 stand dismissed on the ground of jurisdiction.

Any interim order stands vacated.

However, there shall be no order as to costs.

(Ravi Krishan Kapur, J.)