

JPD-41
Ct No.01
30.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

MAT 45 of 2024
CAN 1 of 2024

Union of India and others
VS
Loka Kumari Sharma and others

Mr. Sudipto Kumar Mazumdar, Ld. DSGI,
Mr. Ajoy Kumar Singhania
.... for the appellants

Mr. Debaish Kundu, Ld. Sr. Adv.,
Mr. R. N. Banik,
Mr. Kunaljit Bhattacharjee,
Mr. Alok Sah
....for the respondent nos.1 to 5

Mr. Hirak Barman,
Mr. Momenur Rahman
.... for the State

- 1.** Learned Deputy Solicitor General (DSG) seeks leave to file a supplementary affidavit disclosing certain documents which have subsequently come to the notice of the respondent-authorities.
- 2.** Learned DSG argues that although no exception was taken to the reports of the B.L.&L.R.O before the writ court, it is all the same true that no affidavits had been directed to be filed at that juncture. Accordingly, it is contended that if the documents which have now come to the notice of the respondents, particularly the Union of India,

are brought on record, the same may alter the outcome of the *lis*.

3. Learned senior counsel appearing for the writ petitioners/private respondents argues that in view of the Union having not taken any exception to the reports which were placed before the writ court, it is precluded at this juncture from taking such exception before the appellate court for the first time.
4. After careful consideration of the respective submissions of the parties, we find from the impugned order that the same was innocuous in nature, merely directing the Block Land & Land Reforms Officer, Rajgung Block, Jalpaiguri to demarcate the LR plots mentioned therein and to supply the particulars thereof to the respective writ petitioners.
5. Learned counsel for the private respondent herein is justified in arguing that having not taken any exception to the reports of the Block Land & Land Reforms Officer which came before the writ court itself, a new stand cannot be taken before the appellate court by the Union of India for the first time. However, at the same time, we are of the opinion that nothing in the impugned order would operate to confer any right, title or interest on any of the parties. Mere demarcation of the LR plots

does not confer or take away any right, title or interest in such plots on or from the rightful owner. It may also be noted that the appropriate remedy in the case of any title dispute would be before a competent civil court and the writ court's direction which is impugned herein does not operate either way, to create any right which any person does not have or to take away the right of a lawful owner.

6. Accordingly, we do not find any reason at this belated juncture to permit the Union of India to bring in further documents, particularly in view of the innocuous nature of the impugned order as discussed above. The writ court having taken a particular view on the basis of the documents which were on record and undisputed before the writ court, we are of the opinion that no interference is called for and the appeal need not be admitted at all.
7. Accordingly, MAT 45 of 2024 along with CAN 1 of 2024 are dismissed with the observation that nothing in the impugned order shall vest or take away any right, title or interest in favour of either of the parties.
8. It is made clear that nothing in this order or the order of the writ court shall affect any pending proceedings before any forum/court.
9. There will be no order as to costs.

- 10.** Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)