

06.11.2024
Item no. 24, 25.
Court No.1.
AB

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

**M.A.T. 90 of 2024
With
CAN 1 of 2024
CAN 2 of 2024**

With

**M.A.T. 91 of 2024
With
CAN 1 of 2024
CAN 2 of 2024**

**Biswajit Sarkar
Vs
The State of West Bengal & Others**

Mr. Chayan Gupta,
Mr. Bikramaditya Ghosh,
Ms. Supriya Singhfor the Appellant.

Mr. Joyjit Choudhury, Id. Addl. AG,
Mr. Nabankur Pal,
Ms. Bedashruti Bosefor the State.

Dictated by Arijit Banerjee, J.

1. Affidavits of service filed in Court today, be taken on record.
2. These two appeals are directed against a judgment and order dated September 11, 2024, whereby two writ petitions being WPA 1865 of 2024 and WPA 1866 of 2024 were disposed of by a learned Judge of this Court.
3. It appears that a patta was executed by the Competent Authority in the State Administration in favour of one Shanti

Sangma in respect of what the respondents say, is forest land (which is disputed by the appellant).

4. It further appears that the appellant, in co-partnership with the said Shanti Sangma, started a car servicing and washing business on a portion of the said land and also set up a dealership business on a plot of land, which, according to the respondents, was not part of the land in respect of which patta was granted in favour of Shanti Sangma.
5. Alleging that forest land could not be utilized for commercial purpose and was meant only for habitation and self-cultivation, the Deputy Field Director, Buxa Tiger Reserve (West) issued a Show Cause Notice and an Eviction Notice to the appellant.
6. The appellant filed the aforesaid two writ petitions challenging the said two notices. After filing the writ petitions, the appellant filed his replies to the Show Cause Notices as recorded by the learned Single Judge in the order impugned before us.
7. The learned Single Judge disposed of the writ petitions with the following directions:

“This Court, accordingly, directs as follows:

- a) The respondent No.4 upon issuing a **seven days’** prior hearing notice to the **petitioner and Shanti** and after giving them an opportunity of hearing shall decide the issue raised in the said show cause notice dated **August 16, 2024, Annexure P7** at **page 43** to the second writ petition by passing a reasoned order in accordance with law.*
- b) The respondent no.4 shall consider the reply to show cause submitted by the petitioner.*
- c) The respondent no.4 shall carry out and complete the entire exercise, as directed herein, positively within a period of **six weeks** from the date of communication of this order. The reasoned order then shall be communicated to the **petitioner and Shanti** positively within a period of **one week** from the date of the said reasoned order to be passed.*
- d) If the reasoned order confirms the violation, at the instance of the petitioner in terms of the allegations made in the said show cause notice, the respondent no.4 and the respondent no.3 and/or any other appropriate authority of the State shall take all consequential and necessary steps to give an **immediate effect** to the said reasoned order but **positively** within a period of **two weeks** from the date of the said reasoned order to be passed in accordance with law.*

*It is made clear that, this order shall not create any right or equity either in favour of the petitioner or in favour of **Shanti**, if they do not succeed to their respective submissions strictly in accordance with law before the respondent no.4.*

*The petitioner shall argue his case on the basis of the **reply to show cause** already submitted and **not beyond that**, and for such purpose the petitioner shall be at liberty to reply upon whatever records and documents he wishes to rely upon before the respondent no.4.*

*It is further clarified and made clear that, this order shall not preclude the appropriate State authority who had granted patta in respect of the said patta land in favour of **Shanti** to take steps in accordance with law, if such authority finds violation of any law or terms and conditions relating to the said patta in respect of the said patta land.”*

8. Being aggrieved, the appellant has filed these two appeals.
9. During the pendency of the appeals, a reasoned order dated October 23, 2024, was passed by the Deputy Field Director, Buxa Tiger Reserve (West), in compliance with the learned Single Judge's order. The appellant has filed applications in both the appeals assailing the said order dated October 23, 2024.
10. By the said order, the Deputy Field Director has essentially directed the stoppage of business of the appellant, demolition of all the constructions put up by the appellant, disconnection of electric supply to the concerned premises and as also directed other Authorities to initiate appropriate action in accordance with law against the patta holder.
11. We have heard learned Counsel for the parties at some length. We are, however, not inclined to interfere with the judgment and order under appeal since, in our view, the same has already been implemented. The Deputy Field Director has already passed an order in terms of the order of the learned Single Judge. Strictly speaking, the appeals

have become infructuous and the order of the Deputy Field Director furnishes a fresh cause of action to the appellant. The appellant will be at liberty to challenge that order before the appropriate forum, in accordance with law. All issues including the issue of jurisdiction/ authority of the Deputy Field Director, Buxa Tiger Reserve (West) to issue the Show Cause Notice or Eviction Notice in question or to pass the order dated October 23, 2024, remain open and the appellant will be entitled to urge the same before the appropriate forum.

12. We put on record the submission of the appellant that although the issue of jurisdiction was raised before the learned Single Judge, the same was not decided.
13. However, to enable the appellant to test the order of the Deputy Field Director before the appropriate forum, we are of the view that some breathing space should be granted to the appellant.
14. The respondents have very fairly suggested that they will not demolish the constructions in question, which have been put up by the appellant or will not insist on disconnection of electric supply till the end of

this month, subject to the appellant stopping all commercial activities on the land in question.

15. We, accordingly, pass the following directions, which will remain in force till the end of this month:

I. The appellant shall stop commercial activities on the concerned plots of land immediately.

II. The respondents shall not demolish the constructions put up by the appellant on the concerned plots of land till the end of this month.

III. The electric connection granted in favour of the appellant in respect of the concerned premises shall not be disconnected till the end of this month.

16. If the appellant is unable to obtain protective order from a competent forum, needless to say, the respondents will be at liberty to implement the order of the Deputy Field Director, in accordance with law.

17. We clarify that we have not gone into the merits of the case. If the appellant chooses to approach any forum challenging the order of the Deputy Field Director, we request that

forum to decide such challenge without being influenced by the observations in this order.

18. The appeals and the connected applications are, accordingly, disposed of.

19. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)