

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

1 12.3.2025
Sc Ct. no.2

WPA 1162 OF 2025

Naresh Paul & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Md. Nauroz Rahber
Mr. Md. Ruhul Amin.

....For the Petitioners

Mr. Soumitra Bandyopadhyay
Mr. Srinath Singha Roy.

.... For the Respondents
State

Mr. Habibur Rahman

.... For the Respondent
No.11

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

Md. Nauroz Rahber, learned Advocate appears
for the petitioners.

Mr. Srinath Singha Roy, learned State Advocate
led by Mr. Soumitra Bandyopadhyay, learned Senior
State Advocate appear for the respondents State.

Mr. Habibur Rahman, learned Advocate appears
for the private respondent no.11.

The prayers from the writ petition are quoted
below :

*(a) For a writ in the nature of Mandamus
commanding the respondents and/or their
servants and agents and each of them to show
cause as to why the land which has been
taken away forcefully should not be handed
over to the petitioners.*

- (b) *For a writ in the nature of Mandamus commanding the respondents authorities to issue a Patta in the name of the petitioners favour considering their long standing possession and cultivation of the land after setting aside and/or quashing the Patta which has already been issued.*
- (c) *For a writ in the nature of Mandamus commanding the respondents authority concerned to recognize the petitioner's right as a Cultivator/occupier of the said land after setting aside and/or quashing the Patta and/or order if any.*
- (d) *For a writ in the nature of certiorari commanding, their servants and agents and each of them to send and transmit the records of the case to this Hon'ble Court in order that conscionable justice be done.*
- (e) *For a Rule in terms of prayer (a), (b), (c) and (d) and after hearing make the said rule absolute.*
- (f) *A writ in the nature of Prohibition prohibiting the respondent no.8 to 10 from exercising power not warranted under the statute.*
- (g) *For a direction to set up a enquiry proceeding against the erring respondents.*
- (h) *For an injunction directing the respondent authority concerned Specially the Respondent No.8 to 10 to not to allow any outsider including the private respondent to Cultivate the land till the disposal of this application.*
- (i) *For an order of stay directing the Private respondent to refrain from cultivating the land himself or through agent till the disposal of the application.*
- (j) *Costs of an incidental to this application.*
- (k) *Such further and/or other order/ orders and/or direction/ directions be passed as this Hon'ble Court may deem fit and proper."*

Insofar as the **prayer (b)** is concerned, the writ petition is not maintainable and if the petitioners have any grievance and claim with regard thereto, the forum of the petitioners shall be the jurisdictional Land Reforms and Tenancy Tribunal and not a Writ Court. Therefore, insofar as the **prayer (b)** and the

consequential reliefs thereto are concerned, those are not considered by this Court in this writ petition.

Learned Advocate for the petitioners referring to **page 21** to the writ petition submits that, in respect of the land mentioned therein measuring about **0.5200 Acre, J. L. No.115, Plot No.725 Police Station – Goalpokhor** (for short the land), the petitioners were granted Patta. He submits that, beyond the said **0.5200 Acre** of land the petitioners have been in possession for more than **forty years** and cultivating the land which is immediately adjacent to the land.

The complaint of the petitioners is that, the State authority without due process of law by applying force has taken possession of the land which is beyond the said land. Learned advocate for the petitioners submits that, such an illegal act on the part of the State authority is not permitted and, thus, he restricts the prayer of the petitioners before this Court only to **prayer (a)** to the writ petition.

The writ petition does not show that, the petitioners have any right over an inch of the land beyond the said **0.5200 Acre** as more fully described in the Patta document at **page 21** to the writ petition. Therefore, just by way of cultivating or being in occupation and possession thereof for last more than **forty years**, no right, title and interest has been created in favour of the petitioners in respect of the

land which is beyond the land mentioned at **page 21** to the writ petition.

There is no infirmity of action on the part of the State, if the State has proceeded and evicted the petitioners from the said land, which is beyond the land mentioned at **page 21** to the writ petition. Inasmuch as, learned Advocate for the petitioners has already submitted that, the petitioners have been dispossessed from such land.

In the event, the petitioners still remain in possession of any part or portion of the land, which is beyond the land mentioned at **page 21** to the writ petition, the State authority shall be free to take steps in accordance with law.

It is also made clear that, this Court has not gone into the merits of the claim of the petitioners insofar as the **prayer (b)** and the consequential reliefs are concerned and if the petitioners are eligible in law, they may apply before the appropriate jurisdictional Land Reforms and Tenancy Tribunal positively within a period of **four weeks** from date. If such an application is filed, the jurisdictional Land Reforms and Tenancy Tribunal shall decide the same in accordance with law on its own merit and without being influenced by observations, if any, made by this Court.

With the above observations and directions this writ petition, **WPA 1162 of 2025** stands ***disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)