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07.07.2025
Ct.19

W.P.A. 9971 of 2023

Sri Promod Choudhury alias Pramod Chowdhury

-vs-

The State of West Bengal & Ors.

Mr. Sarbananda Sanyal

....for the petitioner.

Ms. Manika Roy
Ms. Ankita Chowdhury
Mr. Atanu Sur

....for the NHAI.

Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal

....for the State.

1. The writ petitioner, the respondent State and its functionaries i.e. the respondent nos. 1 to 4 and NHAI authority and its functionaries i.e. respondent nos. 5 and 6 are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs for quashing of the order dated 2nd February, 2023 as passed by the respondent no. 3 authority.
3. At the time of hearing, Mr. Sanyal, learned advocate appearing on behalf of

the writ petitioner at the very outset draws attention of this Court to page no. 24 of the instant writ petition being a copy of the information of the relevant plot no. 804 corresponding to R.S. Plot No. 1072 in mouza Paschim Bhatjungla, district Nadia. It is submitted by Mr. Sanyal that from the copy of the said information it would reveal that the present writ petitioner is a riat in respect of the aforementioned plot.

4. Drawing attention to page nos. 27 and 28 of the instant writ petition being copies of two representations as submitted by the writ petitioner it is submitted by Mr. Sanyal that under cover of the said representations it has been contended by the writ petitioner that in the aforementioned plot, the respondent no. 5 authority have most unlawfully utilized 910 sq. feet of land with structure of the writ petitioner without initiating any valid process of acquisition and without disbursing adequate compensation.

5. It is further submitted by Mr. Sanyal

that from the order under challenge dated 2nd February, 2023 it would reveal that the respondent no. 3 authority while rejecting the contention of the writ petitioner practically relied upon a report of the jurisdictional Block Land and Land Reforms Officer (BL & LRO) as submitted on 19th January, 2023 and the respondent no. 3 has miserably failed to visualize that in respect of the relevant plot no partition took effect.

6. It is further submitted by Mr. Sanyal that the finding of the respondent no. 3 authority while passing the order dated 2nd February, 2023 is faulty and is required to be quashed.
7. Ms. Roy, learned advocate for the respondent nos. 5 and 6 contended that no case has been made for interfering with the order under challenge.
8. Mr. Bandyopadhyay, learned senior government advocate on behalf of the State respondent adopted the argument of Ms. Roy.
9. On careful consideration of the entire materials as placed before this Court

and after hearing the learned advocates for the contending parties, it reveals to this Court that pursuant to a judgment and order dated 11th July, 2022 as passed in WPA 20035 of 2019 by a Coordinate Bench of this Court the jurisdictional BL & LRO conducted a joint field enquiry and thereafter submitted his report before the respondent no. 3 authority on 19th January, 2023.

10. The respondent no. 3 authority while passing the order under challenge practically relied upon such demarcation report as submitted by the jurisdictional BL & LRO and came to a finding that the land of the writ petitioner is situated beyond the alignment area which was acquired for widening the national highway at the behest of the respondent nos. 5 and 6.

11. Though it has been strongly contended by Mr. Sanyal, learned advocate for the writ petitioner that such finding of the respondent no. 3 authority is faulty inasmuch as the respondent no. 3

authority failed to visualize that in respect of the relevant plot no partition took place, such contention of Mr. Sanyal does not appear to this Court as much convincing inasmuch as this Court is very conscious that sitting in a writ jurisdiction and while entertaining a review over the action of the respondent authority this Court is not supposed to act as an Appellate Court. The only consideration before this Court in judicial review would be as to whether the order as passed by the respondent no. 3 authority is otherwise perverse and/or non-consideration of materials as available before him.

12 On careful consideration of the order under challenge dated 2nd February, 2023 as passed by the respondent no. 3 authority it rather appears to this Court that the respondent no. 3 authority on the basis of the said demarcation report came to a factual finding that the writ petitioner's occupied land in the relevant plot of land is beyond the alignment area of NHAI authority.

13. On behalf of the writ petitioner no material could be placed that the demarcation report as filed by the jurisdictional BL & LRO has got no basis at all.

14. This Court thus finds that the respondent no. 3 authority correctly came to a logical conclusion with regard to the grievance of the writ petitioner and thus by no stretch of imagination it can be said that the decision of the respondent no. 3 authority is either perverse or is vitiated for non-consideration of materials as available in the record.

15. With the aforementioned finding, WPA 9971 of 2023 is thus dismissed without any order as to costs.

16. Before parting with, it is however made clear that dismissal of the instant writ petition will not debar the writ petitioner from approaching the appropriate forum for ventilating his grievance, so advised.

17. Since no affidavit has been called for, the allegations made in the writ

petition is deemed to have been admitted.

18. Urgent Xerox certified copy of this order be given to the parties expeditiously, if applied for, on usual undertakings.

(Partha Sarathi Sen, J.)