

MAT 711 of 2025
with
IA No. CAN 1 of 2025
and
IA No. CAN 2 of 2025

(Nimai Mondal & Ors. Vs. Sadhan Kumar Mondal & Ors.)

Mr. Pinaki Dhole
Mr. Asit Hazra
Mr. Rabindra Kumar Pathak
Ms. Soumi Chatterjee
Ms. Srijita Mondal

.... For the appellants

Mr. Partha Sarathi Bhattacharya, Sr. Adv.
Mr. Bidyut Baran Biswas
Mr. Ranjit Kumar Rath
Mr. Alope Chakraborty

**..... For the writ petitioners/
respondents**

Mr. Asish Kumar Guha
Mr. Naren Ghosh Dastidar

..... For the State

The present appeal has been preferred challenging an order dated 13th August, 2024 passed by the learned single Judge in a writ petition being WPA 27922 of 2017. In connection with the same an application for condonation of delay being CAN 1 of 2025 and an application for stay being CAN 2 of 2025 have been filed.

As we have invited the learned advocates appearing for the respective parties to advance their argument on merits of the matter, the delay in preferring the appeal is condoned and the application being CAN 1 of 2025 is disposed of.

Mr. Dhole, learned advocate appearing for the appellants submits that it would be explicit from the averments made in the writ petition that in execution on a civil Court decree, the writ petitioner/respondent was put in possession of a portion of land. In view thereof, there exists no requirement for demarcation of the land by the Block Land & Land Reforms Officer, Tehatta, Palashipara, Nadia (in short, BL&LRO), as directed by the order impugned. There was also no prayer in the writ petition seeking any direction upon the BL&LRO for demarcation. Taking advantage of such order for demarcation, the writ petitioner/respondent is attempting to disturb the possession of the appellants.

Mr. Bhattacharya, learned senior advocate appearing for the writ petitioner/respondent denies and disputes such contention of Mr. Dhole and submits that a partition suit being Title Suit No. 90 of 1983 was preferred and the said suit was decreed in preliminary form on 3rd February, 1984 declaring 7/10th share of the writ petitioner. The learned advocate Commissioner was appointed and he submitted his report before the learned Court below. The said report was accepted by the parties and the land measuring 5.71 acres of agricultural land as detailed in paragraph 2 of the writ petition was allotted to the writ petitioner and on 21st September, 1995, possession was handed over to him through bailiff by

making demarcation in Title Execution Case No. 01 of 1995. Such possession was sought to be interfered with by the private respondents and as such the writ petitioner lodged a complaint before the police authorities. As the police authorities did not take any steps, he was constrained to prefer the writ petition.

Mr. Guha, learned advocate enters appearance on behalf of the State and submits a report. Let the same be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Records reveal that initially an order was passed on 9th January, 2018 directing the Officer-in-Charge of the local police station to deploy appropriate police personnel to ensure that the writ petitioner retains the possession of the land in question and is able to cultivate the land without any hindrances from any quarter. The said order was not appealed against by the private respondents. The order impugned was passed about six years thereafter. The writ petitioner appears to have continued in possession of the said land. The learned Judge accepting a report filed by the learned advocate of the State observed that the issue relates to demarcation which is within the domain of BL&LRO.

It appears from the records that the writ petitioner was put in possession of the land described in paragraph 2 of

the writ petition on the basis of an order passed by the competent civil Court. The police authorities are under an obligation to comply with such direction of the competent civil Court on the basis of which the writ petitioner had been placed in possession.

In view thereof, there is no further requirement for the BL&LRO to conduct any demarcation. However, the police authorities shall ensure that the writ petitioner retains the possession of the land in question and is able to cultivate the land without any hindrance from any quarter. The police authorities shall also ensure that no untoward incident or breach of peace takes place in the locale.

The order impugned is modified to the above extent and the appeal along with the connected application for stay is disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)