

15
25.08.2025
Court. No. 19
Jayanta

WPA 14370 of 2024

Bodhan Mondal
Vs.
The State of West Bengal & Ors.

Mr. Sambhunath Ray
Ms. Sulagna Sen
Ms. Munmun Das

...for the petitioner.

Mr. Chandi Charan De, Ld. AGP
Mr. A. Sarkar

...for the State.

Mr. Mrinal Kanti Ghosh

...for the Respondent nos. 7 to 9.

1. The writ petitioner, the respondent State and its instrumentalities and the private respondent are represented by their respective counsels.
2. On behalf of the writ petitioner a supplementary affidavit is filed and the same is taken on record.
3. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities more specifically; against the respondent no. 5 authority for quashing of the memo dated 31st January, 2024 as issued by competent authority whereby and where under the respondent no. 5 authority declined to grant permission to the writ petitioner for felling down of the trees as situated in plot no. 2322 under Mouza-Hrishi under Purbasthali-II Block.
4. At the time of hearing Mr. Ray, learned advocate appearing on behalf of the writ petitioner submits before this Court that it is

the specific case of the writ petitioner that the writ petitioner by virtue of a deed of settlement obtained an orchard situated at the aforementioned plot no. 2322. It is, thus, submitted by Mr. Ray that the respondent no. 5 authority while passing the impugned order has wrongly come to a conclusion that the permission for felling the tree as sought for cannot be granted since the property in question exists in ejmali (in un-partitioned condition).

5. It is further contended by Mr. Ray that from page 19 of the supplementary affidavit as filed today it would reveal that the said orchard exclusively belongs to the writ petitioner. It is, thus, submitted by Mr. Ray that it is a fit case for granting reliefs to the writ petitioner in terms of the prayers made in the instant writ petition.
6. *Per contra*, Mr. Ghosh, learned advocate appearing on behalf of the private respondent nos. 7 to 9 has filed a copy of the plaint of Title Suit no. 1 of 2018 as filed by the present petitioner as plaintiff in the Court of Civil Judge, Senior Division at Kalna.
7. It is submitted by Mr. Ghosh that from the copy of the said plaint of Title Suit no. 1 of 2018 it would reveal that the said suit is a suit for declaration and partition and from the schedule of the said plaint it would further reveal that the aforementioned plot no. 2322 is un-partitioned to the extent of 197 Satak.
8. Mr. De, learned Additional Government Pleader appearing on behalf of the respondent State submits before this Court that in absence of any perversity in the order impugned there is

hardly any scope to interfere with the said order under challenge.

9. On careful perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties it appears to this Court that the respondent no. 5 authority while passing the impugned order dated 31st January, 2024 though placed is reliance upon the plaint of Title Suit no. 11 of 1987 but on behalf of the private respondent such copy of plaint has not been filed at the time of hearing.
10. It further appears to this Court that the respondent no. 5 authority has not considered the deed of settlement as claimed to have been executed in favour of the writ petitioner as has been annexed at page nos. 27 to 37 of the instant writ petition.
11. Since before this Court the writ petitioner claims his absolute right, title and interest over the orchard as situated in plot no. 2322 under Mouza-Hrishi under Purbasthali-II Block through the deed of settlement as mentioned above, this Court while disposing the instant writ petition directs the respondent no. 5 authority to revisit the writ petitioner's application for felling down the trees afresh after giving due opportunity of hearing both to the writ petitioner and the private respondents and also giving them opportunity to file their document of title, if there by any.
12. It is further directed that soon thereafter the respondent no. 5 authority shall pass a reasoned order afresh and shall communicate the same both to the writ petitioner and the private respondents preferably by mail, if the mail details of

the writ petitioner and the private respondents are provided to him at the time of hearing.

13. The entire exercise as indicated hereinabove is to be completed within sixty working days from the date of communication of the server copy of this order.
14. The respondent no. 5 authority is directed to act on the basis of the server copy of this order.
15. Before parting with it is made clear that while disposing the instant writ petition this Court has not gone into the title of any of the parties and, therefore, before the respondent no. 5 authority all points are kept open.
16. Since no affidavits have been called for the allegations made in the instant writ petitioner are deemed to have been denied.
17. With the above observation being, WPA 14370 of 2024 is disposed of.
18. There shall, however, be no order as to costs.
19. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Sen, J.)