

N.22S1

151/CL
10.07.25
Sl-18
Ct.24
(S.R.)

WPA 15389 of 2013

Sunil Kumar Guha

v.

The State of West Bengal & Ors.

Ms. Sutapa Sanyal
Ms. Tannistha Bandyopadhyay
... for the petitioner.

Mr. Soumitra Bandopadhyay
Mr. Aniruddha Sen
... for the State.

Affidavit of exception against the report filed by the respondent no.5 is taken on record.

The crux of the matter is that the petitioner was a forceful occupier over a plot of land being CS Plot No.231 corresponding to RS Plot No.358 within Mouza Chakraghata under PS Barasat, District 24-parganas (North).

It is the contention of the petitioner that while he was in possession the respondent authority has illegally and arbitrarily evicted the petitioner from the portion of the plot of land and one deed of gift was executed by the government in favour of the private respondent. It is the further contention of the petitioner that if the petitioner was forcefully evicted from the plot of land by the concerned government authority, the necessary order be passed to resume the possession of land in favour of the petitioner. The report of the State reflected that during the spot inspection on 5th July, 2012, it appears that none

is living on the plot of land and there is no construction thereon.

The learned counsel for the petitioner submits that both CS and RS records of rights reveal that the petitioner was in possession over the plot of land since long. If the petitioner was evicted forcefully, the concerned authority may be directed to resume his possession.

Learned counsel appearing on behalf of the respondent authority submits that let the matter be relegated to the concerned authority so that the matter can be disposed of finally.

Heard the learned counsel for the parties. It appears that the petitioner has placed on record the copy of RS and CS, wherefrom it appears that the petitioner was in possession (though forcefully) over some portion of plot of land being CS Plot No.231 corresponding to RS Plot No.358. It is unknown to this Court how the petitioner evicted from the plot of land and why a deed of gift was executed in favour of the private respondent by the government authority.

The disputed facts cannot be decided by this Court at this juncture. It would be prudent to relegate the matter to the concerned District Rehabilitation Officer, the Department of Refugee Relief and Rehabilitation Barasat, 24 Parganas (North) being the respondent no.4 of this writ petition to decide the issue.

It is made clear that the petitioner shall make a

representation to the authority within two weeks from the date of passing of this order detailing about his earlier possession over the plot of land and his claim made therein. On such representation, the respondent no.4 shall dispose it of according to law within six weeks from the date of submission of the representation after giving a reasonable opportunity of being heard to the petitioner.

It is clarified that possession over a plot of land by petitioner or eviction thereof is a factual dispute, which cannot be determined by Writ Court. If it appears that the petitioner was in possession over the disputed plot of land in question and he was evicted without due process of law, the respondent authority may pass an appropriate order for resumption of his possession and/or the petitioner has the opportunity to approach the appropriate forum to establish his right on the basis of possession.

With the above observations, WPA 15389 of 2013 is disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Subhendu Samanta, J.)