

Item No.31
09.06.2025
Court. No. 19
GB

W.P.A. 18293 of 2023

Jitendranath Singha
Vs.
The State of West Bengal & Ors.

*Mr. Samiran Mandal,
Mr. Abhinaba Dan,
Mr. Nitish Samanta*

...for the Petitioner.

*Mr. Soumitra Bandyopadhyay,
Mr. Priyabrata Batabyal*

...for the State.

1. By filing the instant writ petition the petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities, more specifically against the respondent no.4 authority directing him to remove the illegal occupiers from the land measuring about 1.6 acres in R.S. Plot No.1145 in Mouza – Dhandabag under C.S. Khatian No.322, R.S. Khatian No.568, J.L. No.66 within P.S. Cokeoven, District - Paschim Burdwan.
2. In course of hearing, learned advocate for the petitioner at the very outset draws attention of this Court to the order dated 06.06.2022 as passed by the respondent no.4 authority. The relevant portion of which is quoted below in verbatim:-

“In view of the fact stated above the recording in LR stage in the plots created from the RS plot no 1145 of Dhandabag mouza appears to be erroneous and needs to be corrected as per prevailing law.

As such the recording of 1.60 decimal land of RS plot no 1145 of Dhandabag mouza,

wrongly recorded in name of RR Department, is ordered to be corrected in favour of the RS recorded owner after deleting the relevant LR plots of RR Department opened from RS plot no – 1145.

BL&LRO Faridpur – Durgapur is directed to start an appropriate proceeding for the necessary correction of LR records as per law after issuing notices to all the interested parties to the case, immediately upon receipt of this order.”

3. It is, thus, submitted on behalf of the writ petitioner that from the finding of the respondent no.4 it would reveal that the respondent no.4 upon consideration of the representation of the writ petitioner came to a specific finding with regard to the wrong recording of name of RR and R Department, Burdwan in respect of the said plot of land which is why the respondent no.5 authority was directed by the respondent no.4 authority to initiate an appropriate proceeding for correction of LR records.
4. At this juncture, learned advocate appearing on behalf of the writ petitioner draws attention of this Court to page nos.7 and 8 of the report as submitted by the respondent nos.3 & 4. It is submitted that from the said two pages it would reveal that 22 persons are found to be in unlawful occupation of the aforementioned plot of land. It is submitted on behalf of the writ petitioner that taking advantage of wrong recording of the name of RR and R Department,

Burdwan, the said department has inducted those 22 persons in the said plot of land which belongs to the writ petitioner. It is, thus, submitted that in view of such there cannot be any predicament in allowing the prayer of the writ petitioner.

5. Such contention is, however, opposed by Mr. Bandyopadhyay, learned senior government advocate appearing for the respondent authorities. It is submitted on behalf of the respondent/State that from the report as affirmed on 01.03.2024, it would not reveal that those 22 persons have been inducted by the respondent authorities, more specifically RR and R Department, Burdwan.
6. In course of hearing Mr. Bandyopadhyay, learned senior government advocate also draws attention of this Court to page nos.17 to 21 of the said report. It is submitted by Mr. Bandyopadhyay that before the jurisdictional civil court the writ petitioner has already filed a civil suit being Title Suit No.1113 of 2018.
7. On careful consideration 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 it is the case of the writ petitioner that the 22 persons are in unlawful occupation of the aforementioned plot which according to the writ petitioner belongs to him. Admittedly, those 22 persons are not made parties in the instant writ petition.

8. For the sake of argument, even if, it is accepted that the said 22 persons have got no authority to occupy the portion of the aforementioned plot of land, this Court sitting in writ jurisdiction cannot pass any eviction order which exclusively falls in the domain of jurisdictional civil court. In considered view of this Court since the writ petitioner has every opportunity to move before the jurisdictional civil court praying for eviction of the alleged 22 illegal occupiers from the aforementioned plot of land, this Court holds that the instant writ petition is devoid of any merit, basically on account of non-availability of alternative remedy.
9. At this juncture this Court intends to place its reliance upon the reported decision of ***U.P. State Spinning Co. Ltd. versus R.S. Pandey & Anr.*** reported in ***(2005) 8 SCC 264***, wherein the Hon'ble Supreme Court while dealing with the subject of alternative remedy expresses the following view:-

“11. Normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approaches the High Court without availing the alternative remedy provided, the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extraordinary jurisdiction.

16. There are two well-recognised exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is ultra virus, it is open to a party aggrieved thereby to move the

High Court for quashing the proceedings on the ground that they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has no application when the impugned order has been made in violation of the principles of natural justice.”

10. In the event the aforementioned principle is applied to the facts and circumstances of the instant case, it appears to this Court that the writ petitioner has miserably failed to place any material for exercising extraordinary plenary jurisdiction of this Court without availing the alternative remedy.
11. This Court, thus, holds that the instant writ petition is devoid of any merit and is, thus, dismissed.
12. However, there will be no order as to costs.
13. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)