

S/L 5
16.06.2025
Court. No. 19
Suwayan

WPA 19679 of 2023

Smt. Kabita Goswami
Vs.
State of West Bengal & Ors.

Mr. Achyut Basu
Ms. Punam Basu
Mr. Srikumar Chakraborty
Mr. Amritansu Sengupta

...for the petitioner.

Mr. Sujay Bandyopadhyay
Mr. Jagajyoti Das

...for the Midnapore Municipality.

Mr. Chandi Charan De, AGP
Ms. Reshma Chatterjee

...for the State.

1. The exception to the report of the respondents/State as filed by the writ petitioner is taken on record.
2. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 2 for quashing and/or setting aside the order dated 02.02.2023 whereby the respondent no. 2/authority declined to entertain the writ petitioner's representation for disbursement of adequate quantum of compensation on account of alleged utilization of the land of the writ petitioner as has been purchased in the year 2020.
3. In course of his submission, learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 19 to 70 of the instant writ petition being a copy of the registered deed of conveyance dated 29.06.2020 as has

been executed in favour of the writ petitioner by her vendor. In course of hearing, learned Advocate appearing on behalf of the writ petitioner draws attention of this Court to the schedule of the said deed of conveyance dated 29.06.2020 *vis-à-vis* the report of the State more specifically Annexure – A to such report being a printout of information in respect of plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur.

4. It is submitted on behalf of the writ petitioner that on comparative study of the schedule of the deed of conveyance dated 29.06.2020 and the printout of the information regarding plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur it would reveal that out of 38.9800 acres of land only 18.9600 acres of land was vested. It is submitted that from the self-same information of the relevant plot it would reveal that the name of the predecessor in interest of the vendor of the present writ petitioner was recorded in Khatian no. 671 in the plot no. 2992 to the extent of 0.9100 acre.
5. It is further submitted that from the schedule of the deed of the present petitioner it would reveal that the present petitioner purchased a portion of 0.9100 acres of land as recorded in Khatian no. 671 which is a Rayati land and, therefore, by no stretch of imagination it can be said that the entire plot being plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur has been acquired as wrongly held by the District

Magistrate, Paschim Medinipur i.e.; the respondent no. 2 herein. It is thus submitted that from the report as submitted on behalf of the State it would reveal that for the purpose of AMRUT Project the respondent no. 3/municipality and its instrumentalities are not supposed to utilize the land of the writ petitioner since the same is a Rayati land which the respondent no. 2/authority has failed to visualize. It is thus submitted that appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayer made in the instant writ petition.

6. In course of their submission, Mr. De, learned AGP appearing on behalf of the respondents/State and Mr. Bandyopadhyay, learned Advocate appearing on behalf of the respondent no. 3/municipality and its instrumentalities at the very outset raised the point of maintainability of the instant writ petition. It is submitted by them that the present writ petitioner has got no *locus standi* to challenge the action of the respondents/authorities inasmuch as the present writ petitioner has got no right, title and interest over any portion of plot no. 2992 on the strength of her alleged deed of title dated 29.06.2020.
7. It is submitted on behalf of the respondents/State as well as on behalf of the respondent/municipality that from the report as submitted before this Court it would reveal that not only 18.96 acres of land but also the entire plot of land in plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur was vested to

the State under the provisions of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 'said Act of 1955' in short). It is further submitted on behalf of the respondents/State as well as the respondent/municipality that it is the specific case of the respondents/State as well as the respondent/municipality that after acquisition of the entire plot of land in plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur and after vesting Patta was given to different persons excluding 18.96 acres which stood record in Khatian no. 1.

8. It is submitted that from the materials as placed before this Court it would reveal that the predecessor in interest of the vendors of the present writ petitioner was a Patta holder and the said Patta holder and/or her successor in interest were/are no way permitted to transfer with such Patta land to any other person in terms of provision of Section 49 (1A) of the said Act of 1955.
9. It is further submitted on behalf of the respondents/State as well as the respondent/municipality that since the writ petitioner purchased the portion of the plot no. 2992 as recorded in Khatian no. 671 which is a Patta land no title passes in favour of the present plaintiff on the basis of the said registered deed of conveyance dated 29.06.2020. It is thus submitted that the present writ petitioner having no right, title and interest over any portion of plot no. 2992 in Mouza – Ballavpur, District – Paschim

Medinipur has no *locus standi* at all to challenge the utilization of the vested land in plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur.

10. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given its anxious consideration over the submissions of the learned Advocates for the contending parties.
11. For effective adjudication of instant *lis* this Court considers that the provisions of Section 49 of the said Act of 1955 is required to be looked into:

“49. Principles of distribution of lands.-

(1).....

(1A) No person with whom any land is or has been settled under sub-section (1) shall be entitled to transfer such land except by way of a simple mortgage or a mortgage by deposit of title deed in favour of a Scheduled Bank, or a Co-operative Society or a Corporation owned or controlled by the Central or State Government or both, and for the purpose of obtaining loan for the development of land or for the improvement of agricultural production or for the construction of a dwelling house.

(2) If a Revenue Officer, on his own motion or an application made to him in that behalf, after hearing the person with whom the land was settled and in the case of any subsequent transfer, the transferee as also the person who is, for the time being in actual occupation of such land and after making such enquiry as may be prescribed, is satisfied that settlement of such land was made by mistake or obtained under any provision of this section by practice of fraud, misrepresentation, coercion or

otherwise or that a transfer of any land has been made in contravention of the provisions of sub-section (1A), he may, by order in writing, annul the settlement or both the settlement and the transfer, as may be deemed necessary.

- (3)
- (3A)
- (4)
- (4)
- (4A)
- (5) ”

12. On careful perusal of the aforementioned legislative provision it thus appears to this Court that it is the legislative mandate that a Patta land and/or a settled land is not subject to transfer except by way of mortgage either simple or deposit by title deed in favour of a Scheduled Bank/Co-operative Society/Corporation owned or controlled by the Central or State both only for the purpose of obtaining loan either for the development of land or for the improvement of agriculture production or for the construction of a dwelling house by the Patta holder. Section 49(2) also mandates that in the event of violation of the provision of Section 49(1A) of the said Act of 1955, Revenue Officer is empowered to annul such settlement after holding an enquiry as per provisions of the said Act of 1955.

13. Keeping in mind the aforementioned legislative provision if I look to the facts and circumstances of the present case it appears to this Court that it is the specific case of the writ petitioner that the writ

petitioner become the owner of a portion of the property situated in plot no. 2992 by virtue of a registered deed of purchase dated 29.06.2020 as has been executed in her favour by her vendors who are legal heirs and successors in interest of one Nagen Shaw whose name is recorded in Khatian no. 671 in plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur.

14. At this juncture if I look to the report of the respondents/State it reveals that it is the specific case of the respondents/State that the entire plot no. 2992 measuring about 38.98 acre was vested to the State as per the provisions of the Said Act of 1955 and, thereafter a substantial portion of the said plot of land was settled in the name of various persons by delivering Patta to them keeping 18.96 acres of land in possession of the State which remained recorded in Khatian no. 1.
15. This Court has occasioned to go through the exception as used by the writ petitioner. It appears to this Court that in her exception the writ petitioner has not dealt with the assertion of the State with regard to grant of Patta in the remaining portions of the plot no. 2992 in Mouza – Ballavpur, District – Paschim Medinipur. It thus appears to this Court that the averments of the respondents/State regarding distribution of Patta and/or settlement of a substantial portion of plot no. 2992 remains uncontroverted.

16. It thus appears to this Court that sufficient materials have been placed before this Court that the present writ petitioner has purchased a portion of plot no. 2992 which stood recorded in Khatian no. 671 from the successors in interest of the original Patta holder.
17. In view of such, this Court has got no hesitation to hold that since the present writ petitioner purchased the land from the Patta holder and/or his successor(s)-in-interest, her title becomes defective on account of the provisions of Sections 49 (1A) and 2 of the said Act of 1955.
18. This Court further holds that on account of such defective title the writ petitioner is not entitled to challenge the utilization of the vested land by the respondent/municipality.
19. With the aforementioned finding, the instant writ petition being WPA 19679 of 2023 is dismissed.
20. There shall be, however, no order as to costs.
21. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)