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24.01.2025
Ct. No. 11
Jayanta

MAT 2038 of 2024
with
CAN 1 of 2024

Ashok Das & Ors.
vs.
The State of West Bengal & Ors.

Mr. Balai Lal Sahoo
Mr. Aswini Kumar Bera
Mr. Arijit Bera
.....For the Appellants.

Mr. Sadhan Halder
Mr. Kazi Sajjad Alam
.....For the State.

Mr. Saibal Kumar Acharyya
Mr. Pradip Paul
Ms. Renesa Dey
....For the respondent No. 13.

The present appeal challenges the order dated 30th September 2024 passed by the learned Single Bench in WPA 1165 of 2024, which directed the respondent no. 2 to ensure the immediate implementation of the order dated 25th September 2023, by directing the respondent no. 3 or any appropriate state authority to take necessary actions for the same within the specified timeframe.

The facts which need to be noticed for addressing the issue involved in the appeal are that the private respondent no. 13 filed an application before the competent authority, alleging that the appellants were in unauthorized occupation of the government lands bearing plots 408 and 409 of Mouza-Baragarh, P.S.-Debra, District-Paschim Medinipur, thereby obstructing access to his land being plot no. 419 in the same Mouza.

Since no effective action was taken on his representation, private respondent no. 13 filed WPA 1240 of 2023. The writ petition was disposed of on 10th February 2023, directing the concerned Collector to consider the representation and take a decision within a specified timeframe, after hearing the necessary parties, before taking any action under Section 3(1)(a) of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 (in short, the Act of 1962).

Pursuant thereto, the representation was disposed of on 25th September 2023, stating that the appellants were occupying plots 408 and 409, which belong to the Department of Health, Government of West Bengal, without any right, title, or interest in those plots.

The PWD was directed to remove the unauthorized occupants from the lands under Section 3(1) of the Act of 1962 and the West Bengal Highways Act, 1964, following due process. The Department of Health was also instructed to remove the unauthorized occupants from their land with the assistance of the PWD, adhering to the due process.

Subsequently, to seek implementation of the 25.09.2023 order, private respondent no. 13, Nayan Chandra Aditya, filed WPA 1165 of 2024, which was disposed of by the order under challenge in this appeal.

Meanwhile, the appellants, Ashok Das and two others, filed three separate writ petitions being WPA 26202 of 2023, WPA 26203 of 2023, and WPA 26209 of 2023, challenging the DM's inaction on their applications

for long-term leases of plots 408 and 409. These petitions were disposed of on 20th May 2024, with a direction to respondent no. 6 to consider the appellants' representations, dated 28th October 2023, within the specified timeframe.

In compliance with the order dated 20th October 2023, the appellants' representations were disposed of through three separate orders on 5th December 2024, rejecting their applications for long-term leases of the two plots. However, they were directed to submit their petitions as per the Land Reforms Manual, 1991, to the appropriate authority/department.

Mr. Sahoo, learned counsel for the appellants, submits that the impugned order wrongly held that the order dated 25th September 2023, passed by the DM, was free from infirmity or perversity. He argues that the 25th September 2023 order was not in line with the directions given in WPA 1240 of 2024, where this Court had directed the concerned authority to invoke provisions of the 1962 Act. In contrast, the 25th September 2023 order incorrectly referred to both the Act of 1962 and Act of 1964. Since the lands in question are not highways and do not belong to the PWD, the Act of 1964 is inapplicable. He contends that this issue was raised before the learned Single Bench but was overlooked, and that the Single Bench erred in directing the authorities to implement the 25th September 2023 order.

Mr. Acharyya, learned counsel for the private respondent, denies Mr. Sahoo's contention and submits that, in compliance with the impugned order, a notice under Section 10(1) of the Act, 1964 was issued to both the private respondent and the appellants. He states that, following the notice, the private respondent has removed the unauthorized obstruction from the plots. However, the appellants dispute this claim.

Mr. Halder, learned counsel for the State, submits that all necessary steps have been taken in compliance with this Court's order, and all legal procedures are being followed. Therefore, no interference is warranted in this appeal.

Heard the learned advocates, perused the materials on record.

The record shows that the PWD has invoked the provisions of the Act of 1964 and issued a notice under Section 10(1) to the appellants, instructing them to remove their unauthorized structures or obstructions from the two plots. If the appellants fail to comply with this instruction, further action will be taken, and the matter will be referred to the Executive Engineer. The appellants may raise the issues addressed before us during the hearing of this appeal. Additionally, the record indicates that their application for a long-term lease has been rejected, but they have been directed to approach the relevant authority with an appropriate application in accordance with the provisions of the Land Reforms Manual, 1991.

In such conspectus, as a significant portion of the impugned order has been implemented, we are not inclined to interfere in this appeal.

Accordingly, the appeal and the connected application are dismissed.

However, this order shall not preclude the appellants from seeking any remedy available to them under the provisions of the 1964 Act or any other relevant enactment.

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

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

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)