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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7658 of 2026

Tapan Sarkar & Ors.
Versus
The State of West Bangal & Ors.

Mr. I. Roy
Mr. P. Baidya
Mr. N. Roy

... For the petitioners.

1. Affidavit of service filed in Court is taken on record.
2. It is the petitioners' case that though the petitioners and their predecessor were in actual physical possession of the land without service of any notice under Section 10(2) of the West Bengal Estate Acquisition Act, 1953 an order of vesting was passed without affording any opportunity to the petitioners to exercise their right of election to retain a particular plot.
3. On the predecessor of the petitioners challenging the same, a Coordinate Bench of this Court exercising extra-ordinary writ jurisdiction by an order dated 22nd January, 1991 in Civil Order No. 5943 (W) of 1991 noting the grievance of the petitioner therein was pleased to dispose of the said writ petition by granting liberty to the writ petitioner therein to file an appropriate application before the concerned respondents for the said respondents to consider and dispose of petitioners predecessor's application within a particular period. It

was also directed in such order if the application as directed is filed, then till disposal of the application, the concerned respondents shall not treat the lands which form subject matter of the said petition as vested. The petitioners claim that its predecessor to have acted in terms of the liberty reserved by the Coordinate Bench and had approached the office of the concerned BL& LRO and such fact would corroborate from the letter dated 7th February, 1991. Unfortunately for the petitioners, the office of the BL & LRO after protracted proceedings by an order dated 28th November, 2023 had disposed of such proceedings without any favourable order since the petitioners had failed to supply the copy of the writ petition and in absence thereof, according to the concerned officer since it was not possible to identify the exchange schedule of lands to be retained, no benefit could be given.

4. Challenging the above order an appeal has been filed before the office of the DL& LRO which has been registered as Case No.433 of 2025. The appeal is, however, barred by limitation and accordingly has been accompanied by an application under Section 5 of the Limitation Act. The appeal and the application are pending adjudication before the office of the DL & LRO.

5. The petitioners at this stage have approached this Court complaining that the municipal authorities are proceeding to alter the nature and character of the plots of land in question by constructing a park. The petitioners

complain that during the pendency of the proceeding the municipality should not be permitted to carry out any construction.

6. Though the State and the municipality are not represented at the time of call, however noting the grievance of the petitioner and also taking note of the fact that a remedy is available to the petitioners before the West Bengal Land Reforms and Tenancy Tribunal and in terms of the judgment delivered in by the Hon'ble Supreme Court in the case of **L. Chandra Kumar vs. Union of India**, reported in **(1997) 3 SCC 261**, this Court at the first instance ought not to entertain a challenge of this nature and the proceeding can only be maintain before the Hon'ble Division Bench, I am not inclined to entertain the writ petition and the same is accordingly dismissed.

(Raja Basu Chowdhury, J.)