

04.02.2026
Item No.27
Court No. 30
Piya

CO 2795 of 2023

Pradip Tewari

-vs-

**The Estate Manager, Murshidabad
Estate, Judicial Department & Anr.**

Mr. Probal Kr. Mukherjee

Mr. Debanik Banerjee

Mr. Steven S. Biswas

Mr. Huzaifa Shahid

... for the Petitioner

Mr. Debajyoti Basu, Sr. Adv.(Virtual)

Mr. S.M. Hassan

Ms. Anupama Yasmin

...for the Opposite Party No. 1

1. The civil revision has been preferred challenging an order dated August 01, 2023 passed by the Learned Additional District Judge, 3rd Fast Track Court at Berhampore, District Murshidabad in Miscellaneous Appeal, being No. 10 of 2019 (CNR No. WBMD01-001787-2019) (Pradip Tewari -versus- Estate Manager, Murshidabad Estate and Anr.).
2. Vide the impugned order, the learned Additional District Judge, 3rd Fast Track Court at Berhampore, District Murshidabad was pleased to dismiss

the appeal filed by the petitioner herein and affirm the order of the Estate Manager, Murshidabad Estate passed under Section 9A of the Murshidabad Estate (Management of Properties) and Miscellaneous Provision Act, 1980.

3. Learned senior counsel appearing for the petitioner submits that the Appellate Court citing several judgments has affirmed the order of the Estate Manager on wrong findings. Some of which are as follows:-

“i. Thus, the appellant claims himself to be the owner of the case property and at the same time he takes the plea that he is in possession of the property and he needs notice before being evicted. His submission hangs between his two claims ----- as an owner of the property and as a mere possessor of the property. Therefore, the appellant makes inconsistent pleas in respect of the case property. The appellant cannot blow hot and cold at the same time. Either he may claim himself as the owner of the case property or as the possessor of the property only. Thus the reliance upon the decision of Altab Hossain(Supra) would not help the appellant in any manner.

ii. *It also appears from the record of the proceeding held before the Estate Manager that the appellant has submitted certain document in his favour in the proceeding held before Estate Manager. The conduct of the appellant before the Estate Manager in respect of the proceeding related to the case property amounts to participation.*

iii. *The appellant took the plea before the Estate Manager that he is only occupying the case property. However, in the instant appeal he took the plea that he owns the property. Therefore, the summary proceeding started before the Estate Manager to evict the appellant was very much maintainable since no bona-fide claim was raised by the appellant over the case property. The examination of the record of the proceeding held before the Estate Manager clearly shows that sufficient opportunity was given to the appellant to put forth his case before the Estate Manager and the Estate Manager getting satisfied came to a finding that the appellant was an unauthorized occupant in the case property and therefore, it cannot be said that the order passed by the Estate Manager is not in consonance with the principle of natural justice as embodied in section 9 of the Act.”*

4. From, the order passed by the Estate Manager, Murshidabad Estate dated

22.02.2019, it appears that the above findings of the learned Additional District Judge are erroneous and has been recorded without any basis and appears to have been **passed without going through the order of the Estate Manager.**

5. The Estate Manager, Murshidabad Estate in his order dated 22.02.2019 has given only the following observations:-

*“.....And whereas Sri Pradip Tewari has been submitted a written statement in which Sri Tewari was stated that **the B.L. & L.R.O erroneously recorded 03 Satak of land in the name of Murshidabad Estate. The said statement is baseless.***

*And whereas there is **every reason to believe** that Pradip Tewari is an unauthorized occupier over the above noted scheduled land of Murshidabad Estate.....”*

6. Now, even if the procedure before the Estate Manager is in the nature of summary proceedings, the same has to be conducted by following the principle of natural justice, by giving a proper hearing to the parties and by passing a reasoned order in accordance with law.

7. It appears that the Estate Manager has not given even a prima facie finding regarding the Record of Rights placed by the petitioner herein.
8. Learned counsel for the petitioner by way of a CAN application being CAN 1 of 2024 has annexed copy of a deed which stands in the name of the petitioner's father and it is stated that it is on the basis of the said deed, that the petitioner has acquired his rights in the property in this case.
9. It is further stated that the Record of Rights in favour of the petitioner is on the basis of the said deed.
10. It is further submitted by the learned counsel for the petitioner that the said order has been passed without complying with the provision of Sections 8 and 9 of The Murshidabad Estate (Management of Properties) and Miscellaneous Provision Act, 1980, which is as follows:-

“9. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 8 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Estate Manager is satisfied that the premises are in unauthorised occupation, the Estate Manager may, on a date to be fixed for the purpose,

*make an order of eviction, **for reasons to be recorded therein**, directing that the premises shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the premises.*

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication under sub-section (1), the Estate Manager or any other officer duly authorised by the Estate Manager in this behalf may evict that person from, and take possession of, the premises and may, for that purpose, use such force as may be necessary.”

- 11.** It further appears from the L & LR records that the schedule property in the deed has been prima facie recorded in the name of the petitioner’s father. All the documents have been placed before this Court annexed to the Civil Revision.
- 12.** Apparently, no reasons have been recorded by the Estate Manager in his order dated 22.02.2019.
- 13.** Written notes filed by the parties are considered and the opposite party’s application being CAN 1 of 2023 praying for recall of order dated 21.08.2023 is also taken up for consideration.

14. Accordingly, in view of the observations as made above, the impugned order dated 01.08.2023 passed in Misc. Appeal No. 10 of 2019 passed by the Learned Additional District Judge, 3rd Fast Track Court at Berhampore, District Murshidabad is hereby set aside being not in accordance with law and the order dated 22.02.2019 of the Estate Manager, Murshidabad Estate also being not in accordance with law for the reasons recorded above is also set aside.

15. The matter is remanded back to the Estate Manager, Murshidabad Estate who shall conduct a fresh hearing in the present case, on giving a proper hearing to the parties and opportunity to the parties to file all relevant documents in support of their case, beside the issue of eviction, and pass a reasoned order, considering all materials including documents filed, in accordance with law, within 60 days from the date of this order.

16. Civil Revision stands disposed of.

17. Pending applications, if any, stands disposed of.

- 18.** Interim order, if any, stands vacated.
- 19.** Urgent Photostat certified copy of this Order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)