

04.12.2024  
SL.08, Ct.2  
AJ.

**IN THE HIGH COURT AT CALCUTTA  
CIRCUIT BENCH AT JALPAIGURI  
CONSTITUTIONAL WRIT JURISDICTION**

**WPA 1391 of 2024**

**Nilam Lakra & Ors.**

-Vs-

**The State of West Bengal & Ors.**

Ms. Suman Sehanabis (Mandal),  
Mr. Salok Sah,  
Ms. Anwasha Chakraborty.

....for the petitioners.

Mr. Hirak Barman,  
Mr. Bikash Singha.

...for the State.

Mr. Bikramaditya Ghosh,  
Mr. Partha Chaudhury,  
Ms. Supriya Singh,  
Mr. Subrata Sarkar.

...for the respondent nos.2 & 3.

The petitioners are members of the Scheduled Tribe Community and are the recorded owners of L.R. Plot Nos. 1393, 1395, 1465, 1467 and 1471 having different L.R. Khatians of Mouza – Mal.

The petitioners are alleging that the Mal Municipality is using their land for different purposes, such as holding “Mela”, functions, etc without their permission; they are praying that the Municipality be restrained from interfering with the enjoyment of the petitioners over those plots of land.

Mr. Bikramaditya Ghosh, learned counsel for the Mal Municipality submits that the petitioners have manipulated the Record of Rights of the said plots of land; the original recorded owner is one *Matia Mahali Gorait*, with whom, the petitioners have no connection. The said owner once had approached the Backward Class Welfare Officer alleging that the Mal Municipality is using the said plots of land unauthorizedly; the said Officer, on the said complaint, had passed a direction upon the

Municipality not to disturb the possession of the petitioners over the said plots of land. The Municipality, aggrieved by the said direction, has preferred an appeal under Section 14H of the West Bengal Land Reforms Act, 1955; the said appeal is pending before the jurisdictional Civil Judge (Junior Division).

Mr. Ghosh further submits that in view of the pendency of the said appeal, the petitioners are not entitled to any relief as prayed for.

Ms. Sehanabis (Mandal), refuting the contention of Mr. Ghosh, submits that the said *Matia Mahali Gorait* is one of the family members of the petitioners; moreover, mere pendency of an appeal does not authorize the Municipality to use the land of tribals without their consent for its own use.

She however submits that the Primary School functioning from a building constructed on a part of the said plots of land may continue.

Heard learned Counsel for the parties, perused the materials-on-record.

The subject plots of land admittedly belong to the members of the Tribal Community; wrongful dispossession of them or forcible use their land attracts the penal provision of Section 3(g) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

So long the Record of Rights of the said plots of land reflect the names of the petitioners, the Municipality cannot use the same without their permission.

The Municipality therefore is restrained from using the said plots of land for the purpose of holding any functions/meetings/festivals, etc

till the disposal of the writ petition or until further order(s), whichever is earlier.

It is made clear that this order shall not affect the functioning of the school situated in a portion of the said plots of land.

The *locus standi* of the petitioners to maintain the writ petition, as urged by Mr. Ghosh, is kept open.

Let affidavit-in-opposition to the writ petition be affirmed by the respondents within a period of **three weeks** from date; reply thereto, if any, be affirmed by the petitioners within a period of **one week** from the date of receipt of the copy of such affidavit-in-opposition and thereafter, the parties would be at liberty to mention before the available Circuit Bench.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

**(Biswajit Basu, J.)**