

IN THE HIGH COURT AT CALCUTTA

[CIRCUIT BENCH AT PORT BLAIR]

...

WPA/993/2023

Shri Rajesh Xess and Ors.

... Petitioners

Vs.

The Lieutenant Governor and Ors.

... Respondents

Mr. Mit Guha Roy

...for the Petitioners

(Through Virtual Mode)

Mr. V.D. Sivabalan

Mr. Arun S. Kumar ...for the Official Respondents

Mr. Prohit Mohan Lall ...for the Private Respondent

February 01, 2024

(M.A.Mobin)

Item No.8

Writ Petitioners have prayed for issuance of Mandamus restraining the private respondent from transferring, alienating and/or delivering his right, title and interest of 23 sq. mtrs. of land of Survey No.1074/1 as House Site situated at Village - Junglighat under Port Blair Tehsil to any third party without providing for adequate space for footpath. A Writ of mandamus cannot be issued against a private party.

At this juncture the learned Advocate for the petitioners submits that the private respondent has filed an application for rectification of the record-of-rights in respect of Survey No.1074/1 as in the record of rights the area of such plot was mentioned as 0.0023 Sq. Mtrs. instead of

0.0169 Hects. The learned Advocate for the petitioners further submits that the petitioners apprehend that the property of the petitioners may be encroached in the garb of correction of record of rights.

Regulation 104 of the A & N Islands Land Revenue and Land Reforms Regulation, 1966 empowers the concerned Tehsildar to remove any obstacle or encroachment upon any portion of the property. In case the petitioners apprehend that any portion of the property may be encroached upon it will be open to the petitioners to approach the appropriate authority with a representation. If such representation is made, the concerned authority shall consider and dispose of the same by passing a reasoned order in accordance with law after hearing the respective parties whose interest are likely to be affected and to communicate such order to the parties.

The Writ Petition stands disposed of.

It will be open to the Deputy Commissioner, South Andaman District, Port Blair to hear any of the necessary parties at the time of considering the application for rectification of the record of rights submitted by the private respondent herein.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

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

(Hiranmay Bhattacharyya, J.)