
(2014) 09 CAL CK 0028

In the Calcutta High Court

Case No : Writ Petition No. 19751 (W) of 2012, C.A.N. Nos. 12327 of 2013, 6973 and 7937 of 2014

Ajoy Baidya and Others

APPELLANT

Vs

Anjana Rakshit and Others

RESPONDENT

Date of Decision : 19-09-2014

Acts Referred:

Urban Land (Ceiling and Regulation) Act, 1976 — Section 5(3), 6, 8(3), 8(4) — West Bengal Government Land (Regulation of Transfer) Act, 1993 - Section 4

Citation : (2015) 2 CALLT 120 : (2015) 2 CHN 214

Hon'ble Judges : Manjula Chellur, C.J.; Ashim Kumar Banerjee, J.

Bench : Division Bench

Advocate : Bijoy Adhikary, Pradip Kumar Das and Arun Naskar, for the Appellant

Final Decision : Disposed off

Judgement

Dr. Manjula Chellur, C.J.?This writ petition was heard on merits, taking it as on day's list when the matter was taken up for considering CAN No. 6973 of 2014 and CAN No. 7937 of 2014. This writ petition is in the nature of Public Interest Litigation seeking following reliefs:--

"a) A writ of and/or a writ in the nature of mandamus commanding the state respondent Nos. 1 to 3 and 5 to immediately withdraw/rescind/cancel and declare null and void all the said illegal mutation certificates issued by them in favour of the private respondent Nos. 6 to 15 by striking down the names of the private respondent Nos. 6 to 15 from the assessment register of the Municipality canceling their new holding numbers, if any, allotted illegally by the said respondent Nos. 1 to 3 over the said Government vested vacant land which is being used as public park or playground commonly known as SUTAKAL MATH pertaining to R.S. Dag No. 2685, Khatian No. 228, J.L. No. 20 of Mouza Sagachi, PS. Dum Dum, Dist. North 24 Parganas.

b) A writ of and/or a writ in the nature of mandamus commanding the respondents to restrain themselves and/or to act upon the illegal mutation

certificates issued mala fide for the said vested land and/or to make any construction work thereon by converting the said public park or playground to private plots for any private purposes detrimental to public interest.

c) A writ of and/or order and/or direction in the nature of Mandamus do issue commanding all the state respondents their men, agents subordinates not to co-operate illegally the private Respondents in their nefarious activities rather extend appropriate statutory protection to the common people of the locality in their peaceful use and enjoyment of the public park or playground like before without any interference by the said private respondents in any way and manner whatsoever.

d) A writ of and/or in the nature of Prohibition do issue prohibiting the concerned respondents, their men, agents subordinates and assigns to act anything illegal, arbitrary and against the public interest and policy and further converting the public playground or park - the vested land into residential cum commercial complex on the strength of the illegal mutation certificates.

e) Another writ in the nature of prohibition do issue prohibiting the concerned Respondent Municipal Authorities each one of them, their men, agents, servants, subordinates and assigns from making any further delay in taken step to rescind, cancel, withdraw or set aside the said illegal mutation certificates issued in favour of the Private Respondent Nos. 6 to 15 by striking down the names of all of those private respondents from the assessment register of the Municipality and canceling the new holding Nos. if any allotted in their names illegally by the said Respondent Nos. 1 to 3 and further prohibiting the private Respondents to start any construction work on the said vested land converting illegally the public park or playground into private residential cum commercial complex.

f) A writ of and/or order and/or direction in the nature of Certiorari do issue calling up on the Respondents and each of them to certify and remit the records of this case before this Hon"ble Court so that conscionable justice may be administered and/or done to the case and your petitioners.

g) Pass appropriate direction(s) or order(s).

h) Rule NISI in terms of prayers (a) to (g) as above.

i) An order do issue directing the Respondents Authorities to take immediate steps to prevent the private Respondents and their men, agents servants etc. from entering the said public park or playground or from making any construction thereon in any way and manner whatsoever on the strength of illegal mutation certificates issued in their favour illegally by the respondent No. 1 to 3 until those are rescinded, cancelled, withdrawn or declared as null and void by the issuing authorities i.e. State Respondent Nos. 1 to 3 or by Respondent No. 5.

j) Ad-interim order do issue restraining the Respondents from causing any disturbance, interference, obstruction in the smooth and peaceful use and

enjoyment by the common people of the said public park or playground vested to the State until rescission, cancellation, withdrawal or declaration by the State Respondent Nos. 1 to 3 and 5 as null and void of the said illegal mutation certificates issued mala fide in favour of the private respondent Nos. 5 to 16 by striking down the names of all of those private Respondents from the assessment register of the Municipality canceling the new holding Nos. if any, allotted to them illegally by the said Respondent Nos. 1 to 3.

k) To pass any other or further order or orders as Your Lordships may deem fit and proper."

At the time of submission of arguments, learned Counsel for petitioners persistently brought to our notice two other writ petitions W.P. No. 4232 (W) of 2010 and W.P. No. 33360 of 2013 are pending connected to these writ petitions and in the light of observation of Apex Court in Special Leave to Appeal (civil) No. 31805 of 2013 all the connected matters have to be heard and disposed of as expeditiously as possible. We secured the records in the above two writ petitions as well.

2. So far as the present W.P. No. 19751 (w) of 2012, it relates to vacant land measuring about 26 cottahs in R.S. Dag No. 2685, Khatian No. 228, J.L. No. 20, Mouza-Satgachi, District-24 Parganas (North). The reliefs sought in this writ petition are as mentioned above.

3. So far as W.P. No. 4232 (W) of 2010, it is in respect of R.S. Dag No. 2686, Khatian No. 228, J.L. No. 20, Mouza-Satgachi, District-24 Parganas (North) coming within the Dum Dum Municipality. This is also a Public Interest Litigation. In this writ petition, a direction is sought against the respondents thereunder to take immediate steps in respect of a pond situated at the said Dag No. 2686 by restoring the same to its original position from the existing vacant land position. Several other reliefs are also sought for.

4. So far as W.P. No. 33360 (W) of 2013, it is altogether for different prayer wherein they have sought for investigation in terms of an order passed by the Additional Chief Judicial Magistrate, Barrackpore, North 24-Paragans on 18.7.2013 followed by 24.7.2013 order and also other consequential reliefs. In the light of respective reliefs sought as stated above W.P. No. 4232 (W) of 2010 and W.P. No. 33360 (W) of 2013 are not connected to present petition as the cause of action for these writ petitions are different though they may be in respect of adjacent property. Hence, W.P. No. 19751 (w) of 2012 alone is taken up for consideration. In brief, the case of the writ petitioners is as under:--

5. The writ petitioners claim as they are ventilating their collective and common grievance, they have approached this Court in this Public Interest Litigation. They also claim, they are selfless citizens having no personal motive or interest in the matter in issue. It is pertinent to mention here that initially writ petition came to be filed by 9 petitioners. During pendency of the writ petition, except petitioner Nos. 6 & 9, all other writ petitioners have filed an application CAN No. 1232 of

2013 for expunging their names from the writ petition on the ground that the property in question was initially in their thinking was a public property but on perusal of records maintained with the statutory authorities, they are satisfied that it is a private property. Hence, petitioner Nos. 6 & 9 alone are pursuing the writ petition against the statutory authorities and also other private parties.

6. Entire dispute revolves around holding No. 25 in the aforesaid Dag No. 2685 (now holding No. 26/1 to 26/6) of Gorakshabasi Road. According to petitioner No. 6, property vests with the Government by virtue of Urban Land (Ceiling & Regulation) Act of 1976 (for short hereinafter referred to as "Ceiling Act of 1976"). The present private respondents have purchased the property from one Smt. Chabi Dey under separate documents in the year 1999 much later than the date of vesting of the land with the State Government under Ceiling Act of 1976, therefore, Smt. Chabi Dey who was aware of the said Act and who was under an obligation to give statement in terms of section 6 of the Act could not have transferred any portion of said land by way of sale or otherwise is the stand of the petitioners. Understanding the consequences of Act of 1976 residents of the locality as well as the neighborhood were allowed to use the said land as public park and playground without any objection from any quarter. They further contend by virtue of section 4 of West Bengal Government Law (Regulation & Transfer) Act of 1993, no land of the Government could be transferred. Hence, the party respondents have no right, title or interest over the said property as the private respondents have purchased the said property being aware of the legal position. According to petitioners, the party respondents are antisocial elements apart from being land grabbers who are trying to convert the said moidan into a commercial and residential complex having support from the authorities like Revenue, Municipality and police.

7. The party respondent Nos. 6 to 15 according to petitioners entered into joint venture with one Aatryee Nirman Pvt. Ltd. in order to have illegal possession. In spite of complaint to the Sub-Inspector of Dum Dum Police Station no action was taken. Several writ petitions were filed on earlier occasion and by virtue of order dated 26.9.2007, the Chairman of South Dum Dum Municipality was to pass a reasoned order. Though said authority referred to vesting of land in the said order, however, rejected the plea of the writ petitioners. On verification petitioners learnt, mutation was effected in favour of individual party respondent Nos. 6 to 15 and it further revealed, as per the Advocate's advice, such mutation was effected. According to them, this clearly indicates the nexus between the private respondents and the several other authorities. Several changes are made in the Municipal Assessment Register in the year 2011, though party respondent Nos. 6 to 15 have no right, title or interest in the property. They contend that no mutation certificate could have been issued in the name of party respondents with the connivance of authorities.

8. Respondent Nos. 1, 2, 3 & 5, various statutory authorities, have filed affidavit-in-opposition through the Chairman of South Dum Dum Municipality. Similarly,

respondent Nos. 6 to 15 have filed their affidavit-in-opposition. As per the affidavit of Chairman of the Municipality, Assessment List was prepared in the year 1989-90 by West Bengal Valuation Board wherein Holding No. 25 was shown as belonging to one Chabi Dey. After dividing said holding No. 25 into ten parts, Smt. Chabi Dey sold some portions to several persons. From 2000-2001 onwards holding No. 25 became 26 and Chabi Dey's name remain as assessee in respect of 1 bigha and 11 cottahs. The Register of Municipality further reveals, in the year 2000-2001 holding No. 26 was divided into five parts and Chabi Dey sold various portions to different persons. Purchaser's name came to be mutated subsequently.

9. Kamardanga Police Outpost through Officer-in-Charge has placed an affidavit wherein it is stated, this premises No. 26/1 to 26/6 is a land measuring about 25 cottahs and various litigations are pending touching the title of the land. When an attempt to organize football tournament on this property, this Court directed that local police should ensure that no football tournament is organized in the disputed property. Again the Division Bench of this Court in W.P. No. 17630 (W) of 2012 directed that without the written permission of the owner, no activity could be conducted and the said order would be for that year and not for future years to come. The police further submit, as there is possibility of breach of peace and tranquility if such permission is granted, no such permission should be granted. As on the date of filing affidavit, no application was submitted for holding Durga Puja by Naba Yuba Sammilani.

10. From the affidavit-in-opposition on behalf of respondent Nos. 6 to 15, the following material comes to light:--

"Respondent Nos. 6 to 15 have executed a registered Power of Attorney in favour of respondent No. 16. According to them, the claim of writ petitioners who claim to be the residents of Gorakshabasi Road that the land in question is a public park and playground is misconceived, therefore, such prayer cannot be entertained. So far as mutation certificates, those were issued by Municipality in pursuance of a direction by this Court. According to them, petitioners have no locus standi to file the present writ petition since no public law element or interest is involved and their sole motive is to grab the land. They also narrated how this 25 cottahs in holding No. 26/1 to 26/6 (old holding No. 25) has come to their hands. In other words, they trace their title to the property in question. They also narrated how by virtue of direction of the Court, amalgamation came to be allowed. According to them by virtue of an order in Appeal No. 4 of 2005 under Ceiling Act of 1976, the proceedings initiated against Deblal Roy and others was set aside. Similarly, this Court directed Municipality not to convert the private land into public park at the instance of the local people. Contempt application came to be made which was closed when South Dum Dum Municipality and local people made a submission that no act in violation of direction of Court would be committed. They indicated the presence of title suit. They narrated under what circumstances W.P. No. 17630 (W) of 2012 was filed.

According to them in spite of such restraint by the Court, they performed Durga Puja which was not only contumacious but illegal. The attempt to hold football tournament was desisted with the intervention of this Court. They further contend as the dispute over the property is essentially a civil dispute, unless the rights of the parties are decided in the civil suit, the direction sought by the petitioners cannot be entertained. The consequential order of suo moto proceedings by the competent authority under Ceiling Act of 1976 is set at naught by the Appellate Authority. Therefore, they are entitled to have their names in the mutation certificates. According to these respondents, petitioners are busy bodies and with ulterior motives they have approached this Court in one litigation or the other. West Bengal Law Act of 1993 has no application as the same is not a Government land. By force and muscle power, the private land cannot be converted as a public land. Neither the opinion of Chairman of South Dum Dum Municipality nor other authority except the civil court can decide the title dispute over the property. On the other hand, tax receipts and mutation certificates as they stand, impliedly substantiated the contention of the private respondents."

11. In reply, petitioners contend after W.P. No. 274(W) of 2013 respondent No. 16 filed W.P. No. 2432 (W) of 2013 against some local residents (some of the petitioners). The learned Single Judge observed that there are disputed question of title in respect of the property and on earlier occasion in CO. No. 208 of 2013, similar observation was made, therefore, ownership of the property does not belong to respondent Nos. 6 to 15. They further claim that in the last 12 years, Durga Puja was performed by the petitioners with the assistance of local residents under the banner of Naba Yuba Sammilani and there is no justification in the claim of jurisdictional police that there would be disturbance to law and order and it is without any reason. Both municipality and police are colluding with the party respondents. With false allegations, proceedings were initiated against the responsible and sincere personalities of the public.

12. Petitioners 6 and 9 have placed affidavit bringing on records certain facts and this affidavit is filed on behalf of petitioner No. 6 also. According to them, C.A.N. 12327 of 2014 is nothing but commission of cheating and criminal breach of trust of the people. The petitioners other than 6 and 9 are influenced by R/16 and, therefore, they will not be allowed to retire from this case. Having filed the Public Interest Litigation on 29.8.2012, now, they cannot turn around and submit that they are satisfied with the claim of the party respondents and, therefore, they intend to withdraw their names from the case. They further contend that claim of the contesting respondents based on sale-deed of 1999 is illegal. According to them, such documents are fictitious and invalid. Private respondents are influencing police Officer-in-Charge and got filed two false cases. They seek reliefs claimed in the petition for the following reasons:--

"i) It is a public property and not a private property. Till now private respondents have failed to substantiate with material evidence that the KB-cum-Attestation

proceeding done for the suit plots which stood cancelled as per order of ADM & DL & LRO North-24 Parganas, Barasat dated 20.9.2000 have been withdrawn subsequently.

ii) They have not substantiated on what basis the Chairperson could issue illegal mutation certificate without Board of Councilors' consent for the suit plot in favour of private respondent Nos. 6 to 15 when previous Chairman with the consent of the Board of Councilors issued a letter making it clear that it was a Government vested land. Further, a request was made to the competent authority to hand over the suit plot for public use.

iii) By letter dated 15.5.2007 from the O.S.D. and Deputy Secretary to Government of West Bengal intimated competent authority that possession of the suit vacant land has been taken over by Shri Swapan Kumar Dey and requested the then Chairman not to give any mutation on the subject land till further order. The said order is not withdrawn to the knowledge of these two petitioners."

13. With above material on record and the submissions made on behalf of the parties, we have to analyse the material with reference to the legal position.

14. All the nine petitioners initially filed this Public Interest Litigation as pro bono publico. Now, seven out of them are backing out on the ground that they are satisfied with the claim of the contesting respondents. Normally, the petitioner being master of his lis is entitled to withdraw from prosecuting his lis but it is not the same position so far as Public Interest Litigation. Even if the petitioner remain absent to pursue the cause they sought for, once the Court is satisfied that there is prima facie material posing danger to the cause of public or interest of the general public, it is the duty of the Court to proceed with the matter and decide the same on merits. However, in the present petition, petitioner 6 and 9 are supporting the cause they have come up with before this Court. Therefore, irrespective of the fact that some of the petitioners are not interested to pursue the matter, the matter has to be adjudicated on merits. One of the respondents to the proceedings is the Chairman of South Dum Dum Municipality and as per the stand of the Municipality as on the date of filing of the writ petition and also till date the Assessment Register prepared right from 1989-90 indicates Holding No. 25 of Gorakshabasi road now converted as Holding No. 26 (sub-divided as 26/1 to 26/6) is in the name of Chabi Dey initially and later was transferred to the different persons to whom property was sold. There were several litigations regarding this property and before Civil Courts also litigations are pending till date. According to the petitioners, land in question vested in the Government by virtue of Land Ceiling Act of 1976. Therefore, by virtue of section 5(3) of the said Act Chabi Dey could not have transferred the said property to anyone even otherwise once the land becomes Government land by vesting process, Government land cannot be transferred under West Bengal Government Land Act of 1993, is the contention. According to petitioners, they were allowed to use the land as playground and also to organize Durga Puja every year on this property and now, by illegal transactions with the connivance of the officers of the State

Government and the local authorities the issuance of mutation certificates is done which is nothing but arbitrary and full of mala fides.

15. Both the parties have placed on record along with the respective affidavits, documents indicating the litigation from time to time and also transfer of property from time to time in different names. As per the material brought on record tracing of the title is as under:--

16. The entire land including the land in question originally belonged to Shri Hariram Nathani and others. One Shri Jagannath Seth and Monini Das were the tenants. The property later came to be transferred to Shri Basanta Kumar Dey and his elder brother Shri Sarat Chandra Dey by a deed dated 28.8.1921. Shri Basanta Kumar Dey died on 26.1.1925 leaving behind Shri Amiya Kumar Dey and other as his legal heirs. Three legal heirs of Shri Basanta Kumar Dey and Shri Sarat Chandra Dey paid rent to the Sheristha of the Jamindar. Shri Sarat Chandra Dey died on 13.3.1934 leaving behind his wife Chinmoy Dashi and he executed a will on 13.2.1934 appointing his nephew Amiya Kumar Dey as the sole executant. The will came to probate by this Court. Subsequently, Nirmal Chandra Dey sold his right, title and interest in favour of Gobindra Chandra Dey on 1.11.1949. By said document Gobindra Chandra Dey became the owner and possessor of the property but later Gobindra Chandra Dey transferred his right, title and interest in favour of Chabi Rani Dey on 21.8.1964 and the name of Chabi Rani Dey came to be mutated in the Government records as well as local body with effect from 19.8.1969. In 13.12.1999 Shri Deblal Roy and others purchased the property in question and got changed the mutation in concerned records of the Land Revenue department. This was in pursuance of a direction in a writ petition. The power of attorney of Deblal Roy and others have applied for amalgamation for different holdings into a single address and seeking amalgamation of Holding Nos. 26/1 to 26/5.

17. Contesting respondents filed W.P.9668 (w) of 2012 seeking direction for effecting amalgamation of holdings which came to be allowed directing the Municipality to consider such application. It is noticed, initially proceedings were initiated by competent authority under the Ceiling Act, 1976 and a declaration was made that the land vested with the Government. This was by order dated 4.3.2004. An appeal came to be filed by contesting respondents before Appellate Authority in Appeal No. 4 of 2005 by Shri Pradip Shaw and others. It was brought on record that a factory was in existence on the said land which was known as Pranati Textiles and substantial portion of the land was covered by structures, so far as the land, record of rights, mutation certificate was issued from the Land Revenue Office of Barrackpore. Considering these facts, Appellate Authority opined that land purchased was previously held by Pranati Textile Factory consisting structural portion. The main argument was as the structures were on the land, the land in question was not a vacant land. They also claimed for demolition of certain portions of the structures. Some structure was in existence in a dilapidated condition as on 29.3.2000. Apparently, the land was

treated as a vacant land due to pendency of Urban Land Ceiling proceedings. Since no opportunity to defend the case was given to the appellant owners before the Appellate Authority and as no proceedings were followed in terms of section 8(3) of the Ceiling Act, 1976 by issuing notice to the holder of the vacant land and also all others who have interest in the ownership or in possession of the land, the appeal came to be allowed setting aside the order of the competent authority, opining the appellants must be given an opportunity for filing their objections. The appellate authority passed the following order:--

"That the entire proceedings undertaken by the Competent Authority & SDO, Barrackpore in suo motu case No. DD/Misc/35/2000 against the name of Smt. Chhabi Dey is set aside. The Competent Authority, however, is allowed to undertake fresh proceedings on the land held by Smt. Chhabi Dey including the lands purchased by the appellants. If the lands of the appellants, Shri Pradip Saha, Shri Prabir Roy, Shri Somnath Pal, Shri Tarapada Singh, Smt. Jhuma Nayak, Shri Samir Saha, Shri Gopal Saha, Shri Amar Roy, Shri Deblal Roy and Shri Bijoy Kr. Roy are involved in the fresh proceedings, then along with Smt. Dey, all the appellants will be given opportunity of objection hearing u/s. 8(4) of the UL(C&R) Act, 1976. That appeal case bearing No. 4 of 2005 is thus disposed of and the Hon"ble High Court order dated 13.12.2005 in W.P. No. 19177 (w) of 2005 is complied with."

18. Reading of the above order clearly indicates that competent authority has to proceed with the proceedings afresh in respect of the land not only held by Chabi Dey but also the purchasers of the land from Chabi Dey. Till date, the competent authority under the Ceiling Act of 1976 has not initiated any fresh proceedings though the order of the appellate authority is dated 7.3.2007. This is the position so far as Urban Land Ceiling proceedings.

19. In the meanwhile, so far as land in possession of party respondent No. 6 to 15, they claim title as owners. We have already narrated how the property has come to the hands of present contesting respondents so far as Revenue department, mutation is entered in the concerned Land Revenue records. Amalgamation came to be allowed by direction of this Court. Way back in 2001. By virtue of direction in W.P. 14680 (w) of 2001 a direction was sought against South Dum Dum Municipality not to convert the private land into public park at the instance of the local residents. When an attempt was made to defy such direction, a contempt came to be filed against the private persons and the Municipality. Said contempt came to be closed when the contemnors submitted that they would not violate any of the directions of the Court.

20. Erstwhile owner filed Suit No. 204 of 2000 seeking relief of permanent injunction restraining the defendants from disturbing the peaceful possession of the property held by the plaintiff. It was decreed.

21. It is also brought on record that W.P. 17630 (w) of 2012 came to be filed by respondent No. 16 and two others complaining police inaction when local

residents intended to organise Durga Puja over the land. This was allowed with a direction to hold puja only after obtaining written consent from the owners. It was further indicated that such permission to hold Durga Puja was only for the year 2012 and it would not be taken as a precedent for few years. Meanwhile, against the club Naba Yuba Sammilani run by the petitioners and others, Title Suit 262 of 2012 came to be filed by R/16 and an order of status quo was granted as early as 18.8.2012. This is extended from time to time. On an application for police help, a direction was given in this suit to enquire and to give all assistance and also to file a report. A Writ Petition No. 274 (W) of 2013 was filed by the respondents when football tournament was to be organised by the residents. The learned Single Judge passed a positive direction directing the local police not to allow such tournament. It is also brought on record that South Dum Dum Municipality only after a direction in Writ Petition 8171 (w) of 2000 mutated the names of party respondents in the Assessment Register.

22. The dispute over the properties as on today is pending before the Civil Court where the contesting respondents have sought for declaration of right, title and interest over the property. Mere entries in the mutation certificates either in the land records of Revenue department or Assessment Register of Municipality, would not confer title on the persons whose names are found in the mutation certificates specially when there is denial of title over the property. T.S.262 of 2012 is pending before the Civil Court. Apparently, no Urban Land Ceiling proceedings are pending. The relief sought in the present writ petition is only with reference to Mutation Registers. Until and unless the civil suit is decided, as per the records placed before the Court, till date the Mutation Registers have to be in the name of contesting respondents. There is order of status quo is against the present petitioners. Rejection of the plaint sought by the Naba Yuba Sammilani in the civil suit is rejected and vacation of interim order of status quo granted by Civil Court is rejected.

23. It is relevant to note that an interim direction was granted to hold Durga Puja in 2013 and the same came to be stayed by order of the Apex Court. A contempt petition came to be filed complaining violation of the direction, when Durga Puja was held violating the direction of the Court. The contempt petition came to be disposed of as infructuous with an observation to dispose of the Public Interest Litigation on merits.

24. As on today, so far as holding 26/1 to 26/6 (old holding 25), Title Suit 262 of 2012 is pending. Civil Court has to ultimately decide whether the plaintiff who are none other than the party respondents herein are entitled to be declared as absolute owners having right, title and interest over the property. It is open to the defendants who are part of this Public Interest Litigation to bring on record how and why the plaintiffs are not entitled for such declaration. The prayer sought for in this petition is for cancellation of mutation as stated above but it is subject to the outcome of the civil suit pending before Sealdaha Court in T.S.262 of 2012. There are several directions not to conduct football tournament and also

not to conduct Durga Puja on the land in question till the Title Suit is decided. As per the entries now in the records, the party respondents are the persons in whose names the records are entered.

25. C.A.N. No. 7937 of 2014 is filed seeking an order of restraint against the petitioner or any person from holding Durga Puja or any other social or cultural event in the Holding Nos. 26/1 to 26/6 and to give necessary directions to the local police to provide local police assistance in support of the status quo of the orders of Civil Court and also Supreme Court. So far as this application, as already stated above, there is an order of Civil Court directing to maintain status quo which would mean that no Durga Puja or any social event or cultural activity should be entertained on the land in question during pendency of civil suit. Once the orders of the Civil Court have reached its finality without modification of the same, it is the duty of every responsible citizen to obey the orders of the Court.

26. As a matter of fact, when this Court directed holding Durga Puja in the property in question, Supreme Court had stayed the said order. Over and above, according to police, if performance of Durga Puja or other event on this property is held, it would disturb the peace and tranquility in the area. Under these circumstances, this C.A.N. No. 7937 of 2014 is allowed directing the respondents to provide police protection to ensure that the order of the Civil Court in Title Suit No. 262 of 2012 is implemented.

27. C.A.N. No. 6973 of 2014 is for early disposal of the W.P. No. 19751 (w) of 2012 and the same does not survive and consideration as the writ petition is disposed of.

28. C.A.N. No. 12327 of 2013 is filed on behalf of the petitioners except petitioner Nos. 6 & 9. We have already stated regarding expunging of the names of these applicants from the cause title as petitioner Nos. 6 & 9 are prosecuting the matter. This application No. 12327 of 2013 is allowed expunging the names of the petitioners from the cause title.

29. It is also brought on record by respondent police that on account of pending litigations between the party respondents and the local residents, there is likelihood of disturbing peace and tranquility in the area. Therefore, the respondent police must maintain status quo so far as the property in question by not allowing the property to be used either for conducting Durga Puja or football tournament. The respondent authorities have to strictly follow the procedure for such permission if sought by the petitioners or Naba Yuba Sammilani. Permission for organising either a tournament or performing Durga Puja could be permitted by the respondent authorities only if written consent is given by owners as per the records stand as on today. In the light of our observation and reasoning, the writ petition is disposed of accordingly.

Ashim Kumar Banerjee, J.

I agree.