

(1984) 12 CAL CK 0034
In the Calcutta High Court
In Re: Gopal Mondal

Date of Decision : 21-12-1984

Acts Referred:

Citation : 89 CWN 584

Hon'ble Judges : B.P. Banerjee, J

Bench : Single Bench

Advocate : Arun Prokash Chatterjee and Dipak Banerjee, for the Appellant;

Final Decision : Dismissed

Judgement

B.P. Banerjee, J.—This Writ petition has been moved by the President of Chhinumul Sramajibi Adhikar Samity and 5 others. The petitioners No. 2 to 5 are state to be inhabitants and or residents of the area from which Circular Railway authorities are allegedly and forcibly evicting persons for the purpose of implementing Circular Railway Scheme. The petitioner No. 1 is stated to be an Association of Individuate working towards upholding the rights of working people and are very much interested with the problems of poorer section of Calcutta. The petitioned in the instant Writ petition alleged in substance that persons are being evicted illegally, unlawfully and in contravention of provisions of Jaw from their lands for implementation of Circular Railway Scheme. The petitioners also annexed certain hews item published in several newspapers in which it reported that there has been large number of demolition of hut by the Respondents and consequently large number of people rendered homeless. It has contended by the learned Senior Standing Counsel appearing on behalf of the Writ Petitioners that those persons cannot be evicted for implementation of the Circular Railway Scheme unless re-settlement plans are made with the fund to be famished by the Railway Ministry and they are provided with alternative accommodation. Reference was made to the D.O. No. 421-MIG 84 dated 29th October, 1984 by which the Minister-in-Charge of the Local Self Govt. and Urban Development Shri Prosanta Kumar Sur requested Shri Gani Khan Choudhury Union Minister of Railways to direct the Railway Ministry to grant lump sum for the purpose of providing alternative accommodation for the persons who may be

displaced as a result of execution of such a project. From the said letter it appears that the persons who are likely to be evicted were residing on the land belonging to the Railways which were encroached upon by them. In the said letter the State Government pleaded their inability to shoulder the burden of rehabilitation of such persons. In the Writ petition there is no particulars of the persons or person who have been evicted or likely to be evicted and or whose structure have been demolished and for any particulars about their lands. None of the persons who have been affected or likely to be affected directly or indirectly have come forward to allege that they have been evicted unlawfully and in the Writ petition it was nowhere stated what was the nature of right, title and interest of the persons concerned who have been allegedly evicted from the land belonging to the Railways. The only thing that was stated in the Writ petition was that large number of people who used to live in those places for a long time. True that it should be the duty of a welfare state to take steps for rehabilitation of displaced persons and it should not be the endeavour to render any persons homeless. But unfortunately no law has yet been passed by the legislature of the State for providing any alternative accommodation and or making rehabilitation scheme in respect of persons displaced or evicted persons due to execution of any public utility project.

2. In the absence of any law for providing or securing re-settlement of persons evicted due to execution of the Circular Railway Project the Writ Court is powerless to give any relief to the alleged displaced persons. If the persons who are displaced had any legal right in that event the same could have been enforced in a Writ proceeding. The correspondences which passed between the Minister of the State and the Union Minister and or discussion and/or assurance even if given by the Union Minister for Railway did not confer any enforceable right in favour of the persons alleged to have been displaced. Even if, there were assurances given by the Minister concerned for rehabilitation in this behalf, the principles of estoppel could not be invoked in this case inasmuch as in order to invoke the theory of estoppel one of the essential Ingredients? is that the other party relying on the assurance given has acted to his prejudice. There was no such case Further in such a case the proprietary rights, if any, allegedly displaced cannot be enforced through a Writ petition at the instance of others as a public litigation.

3. It is very unfortunate that a large number of people may be seriously affected but it is inevitable if such a public utility project had to be carried out. If the petitioners have any right, title and interest in the land in question under the relevant law in that event they might be entitled to compensation. Unfortunately there is no law in this behalf in this state to enforce the Govt. and the authority to provide any alternative accommodation to the alleged displaced persons. I am unable to give any relief in the instant Writ petition even though this court has every sympathy for the every bonafide helpless people. In view of the paramount consideration that any interference in the matter of such a national project like construction of Circular Railway shall hamper and that it is also well established

principle that no Court shall interfere in such circumstances where the alleged right, if any, have not been prima facie established. In the Circumstances, of the case no interference by this Court is called for which will have the effect of stopping the execution of the work which had been undertaken by the authorities concerned for better development of the transport facilities in the city. Considering the facts and circumstances of the case and particularly considering the very object for which such eviction were made or are sought to be made, I am not inclined to interfere in the matter and as such the Writ petition is rejected.