

WPLRT 26 of 2021**(Via Video Conference)****Gurudas Roy Chowdhury**
vs.
State of West Bengal & Ors.**(Assigned)**

Mr. Haradhan Banerjee
Mr. Amitabha Pyne
.....for the petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar
Mr. Sougata Mitra
.....for the State

Mr. Haradhan Banerjee, learned Counsel appears in support of this petition. This petition is directed against the order of the West Bengal Land Reforms and Tenancy Tribunal (WBLRTT), 4th Bench dated 14th January, 2021.

By the said impugned order the learned Tribunal was unwilling to extend the benefit of injunction as prayed for by the applicant in the O.A., who is also the petitioner before this Court. While refusing the relief of injunction, the learned Tribunal also directed the learned Government representative to submit a status report and place the same before the learned Tribunal on the next date.

Mr. Banerjee submits that in view of the non-agricultural nature of tenancy enjoyed by the petitioner, such land could not come within the purview of the West Bengal Estates Acquisition Act, 1953 (for short the 1953 Act) and, the land could not be treated as vested land recorded in Khatian No. 1 as a vested land since the name of the petitioner stood recorded as the holder of the non-agricultural settlement being in the nature of a brick-field in the R.S. Record of Rights (R.S.R.O.R.).

In support of his arguments Mr. Banerjee heavily relies upon the authority of the Hon'ble Division Bench of this Court reported in 87 CWN 543 at paragraph 5. Paragraph 5, *inter alia*, underscores the proposition that on a reading of Sections 5 and 6 of the 1953 Act read with Rule 4 thereof, it would be incumbent upon any authority, legal forum or Court to assess the nature of the agricultural settlement depending on its user on the date of vesting and, not on purpose of the original settlement.

Mr. Banerjee therefore submits that the nature of user being that of a brick-field, such non-agricultural tenancy would not axiomatically fall into the category of land exclusively vested with the State.

Mr. Chandi Charan De, Learned Additional Government Pleader, submits that the Learned Government representative has taken a stand before the Learned Tribunal which is supported by facts, and, on

consideration of such stand, the Learned Tribunal refused the benefit of injunction to the petitioner.

This Court, at this stage, cannot be satisfied with the view taken by the Learned Tribunal. This Court notices that certain key issues connected to the nature of the settlement and the date of vesting, among others, are relevant for adjudicating the relief of injunction by the Learned Tribunal. This Court further notices that the Learned Tribunal did grant the Learned Government representative the opportunity to submit a status report and place the same before this Bench on the next date.

Ideally, to the mind of this Court, the Learned Tribunal ought to have considered the relief of injunction or its denial, only after the Government representative was allowed to place his evidence in full by way of a status report.

Therefore, the findings of the Learned Tribunal being unwilling to extend the benefit of injunction to the petitioner, appears to this Court to be very preliminary. The Learned Tribunal must consider the entire gamut of the facts and, law prior to coming to any conclusion either by way of granting or denying the injunction.

The matter thus returns at this stage for considering the relief of injunction by the Learned Tribunal and, the Learned Tribunal is requested to complete such hearing on merits not later than a period

of six weeks from this date of communication of this order, subject to its convenience.

Parties may be permitted to exchange their respective formal pleadings before the Learned Tribunal sufficiently in advance.

Till further orders of the Learned Tribunal as directed above, the present *status quo* connected to the said land be maintained by the parties.

Since the matter is not explored further on merits, affidavits are not invited and, nor is the writ petition detained before this Court.

WPLRT 26 of 2021 stands thus **disposed of**.

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

Urgent certified photocopy of this order, if applied for, will be made available to the parties subject to compliance with all requisite formalities.

(Saugata Bhattacharyya, J.) (Subrata Talukdar, J)