

17.12.2021

WPLRT 40 of 2021

Court : 04
Item : 42
Matter : WPLRT
Status : DISPOSED OF
Transcriber: nandy

Subhajit Jana & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Monoranjan Jana, Advocate

Mr. Radhashyam Maity, Advocate

.....for the Petitioners

Mr. Anirban Ray, Learned Government Pleader

Mr. T.M. Siddiqui, Advocate

Mr. N. Chatterjee, Advocate

.....for the State

Mr. Kapil Chandra Sahoo, Advocate

.....for the Respondent No. 4

It is really a sordid state of affair that the Government Representative appearing before the West Bengal Land Reforms & Tenancy Tribunal is making a submission on facts and pursuing the Tribunal to believe such fact to be sacrosanct and the orders are passed thereupon which subsequently appears to be incorrect.

The tribunal application was taken out by the writ-petitioner herein alleging inaction on the part of the Block Land & Land Reforms Officer, Pathar Pratima, Respondent No. 3 herein, in keeping the representation in abeyance as a result whereof the rights which should have been decided by such authority under the statute are kept in lurch and/or undecided. Such being the integral part of the cause of action, submission was advanced by Ms. S. Ganguly, the Government Representative, that the subject plot of land has been taken out from Khatian of the applicants in terms of the order dated

November 6, 2017 passed in Misc. Case No. 52 of 2017 (*Anil Kumar Jana Vs. Subhas Chandra Jana & Ors.*). Since the said property was taken out from Khatian owned by the petitioner in respect of the land he holds on the basis of the duly constituted proceeding under Section 50 of the West Bengal Land Reforms Act, the Tribunal refused to entertain the said application as there is an efficacious alternative remedy by way of appeal available to the petitioner under Section 54 of the said Act. The Tribunal further held that in view of such order having passed in the proceeding, unless the applicant exhaust the remedy provided therein, the tribunal application is not maintainable in view of Section 10(3)(a) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.

Before this Court, the point was raised by Mr. Maity, learned Advocate appearing for the petitioner, that the Tribunal has acted in haste without ascertaining whether any proceeding was initiated which culminated into a final order. Precisely for such reason, this Court directed the State to produce the relevant record pertaining to Misc. Case No. 52 of 2017 pending before the Block Land and Land Reforms Officer, Pathar Pratima.

Today Mr. Siddiqui, learned Advocate appearing for the State, produced the record pertaining to the said Misc. Case wherefrom we find that the said proceeding is still pending as there is no

order after May 22, 2017 passed by the said authority. Furthermore, there is no existence of an order dated November 6, 2017 passed by the said authority and, therefore, the submission of the Government Representative before the Tribunal was incorrect and not substantiated from the record. The Court or Tribunal sometime act on the submissions made at the Bar treating the same to be true but if the Government Representative who owe greater responsibility to the Tribunal makes incorrect or false statement to get a favourable order, such officer must be dealt with sternly and should not be allowed to go scot-free.

Mr. Siddiqui, in his usual fairness submits that from the documents handed over to him it does not appear that the final order has been passed in the said proceeding and, therefore, it was improper on the part of the Government Representative before the Tribunal to submit that the said proceeding has culminated into a final order. It appears that on the submission of the Government Representative, the Tribunal acted thereupon treating the same to be true and correct and, therefore, some action is required to be taken in this regard.

We, therefore, direct the Principal Secretary of the Land and Land Reforms Department to take an appropriate step against the person who are responsible for such wrong and false statement to be made before the Tribunal and fix the responsibility

thereupon so that such officer must be careful in future in making any statement or divulge any fact before the Tribunal or the Court.

Since the impugned order is passed upon the submission made from the State respondent and such fact appears to be incorrect having not substantiated from the record, the order cannot withstand. Accordingly the impugned order is hereby set aside.

The matter is relegated back to the Tribunal for fresh consideration and it is requested that the Tribunal would dispose of the said application within two months from the date of communication of this order.

The writ-petition being **WPLRT 40 of 2021** is **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

