

15.11.2021

Item No.04
Court No.04
Krishnendu
Dismissed

**W.P.L.R.T. 46 of 2021
(THROUGH VIDEO CONFERENCE)**

In re: An application under Article 226 of the Constitution of India
filed on 29.09.2021;

And

In re: Suvra Halder

- Versus –

The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh

For the Petitioner

Mr. T.M. Siddiqui

For the State Respondents

Mr. Anjan Dutta

For the Pvt. Respondents

The present writ petition has been preferred challenging *inter alia* an order dated 8th September, 2021 passed by the learned West Bengal Land Reforms and Tenancy Tribunal, 1st Bench in O.A. 1707 of 2021 (L.R.T.T.).

Mr. Ghosh, learned advocate appearing for the petitioner submits that the learned Tribunal as the Court of first instance ought to have entertained the Original Application since the petitioner would suffer undue hardship in pursuing the remedial measures available under the specified Act. The petitioner is pursuing her claim since 2016 and due to the illegalities perpetrated, she had to approach the learned Civil Court by filing a title suit, being T.S. No. 47 of 2016, which was ultimately disposed of in favour of the petitioner by a judgment and decree dated 6th October, 2020. In spite of the said judgment, the petitioner's name was not incorporated in the record of rights. Aggrieved thereby, the petitioner approached the respondent no.

2, who passed an order on 2nd July, 2021. Challenging the said order, the petitioner approached the learned Tribunal.

According to Mr. Ghosh the learned Tribunal ought to have entertained the application since section 10(3)(b) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1999 provides that the application can be entertained considering the undue hardship suffered by the petitioner. Such denial on the part of the learned Tribunal to exercise jurisdiction warrants interference of this Court. In support of such contention, Mr. Ghosh has placed reliance upon two judgments, one delivered in the case of *Siba Prasad Sahoo – Vs- State of West Bengal*, reported in 2004(1) CHN 162 and the other in the case of *Sri Bidyapati Pal – Vs- State of West Bengal & Ors.*, reported in 2016(4) CHN 127.

Mr. Siddiqui, learned advocate appearing for the State respondents submits that the facts and circumstances of the present case are similar to that in the case of *Abu Bakkar Mondal & Ors. – Vs- The State of State of West Bengal & Ors.* wherein the Hon'ble Court was pleased to hold that the petitioners therein ought to have availed the statutory remedy in stead of approaching the learned Tribunal.

Mr. Datta, learned advocate appearing for the private respondents denies and disputes the contention of the petitioner.

Heard the learned advocates appearing for the respective parties and perused the materials on record and also the averments made by the petitioner in the Original Application.

We do not find appropriate pleadings to the effect that the remedial measures under the provisions of the specified Act are inadequate or that the petitioner would suffer undue hardship in pursuing such remedial measures. The facts involved in the case

of *Abu Bakkar Mondal (supra)* are similar to the facts of the present case and judicial propriety demands that the finding arrived at on the rudiments of similar facts by another Court should be given respect and should be followed.

In the said conspectus, we do not find any error in the order impugned warranting interference of this Court and the writ petition is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Sugato Majumdar, J.) (Tapabrata Chakraborty, J.)