

Item-3 01-09-2021

WPLRT 39 of 2020

Ranajit Kumar Bera & Ors.
Versus
State of West Bengal & Ors.

sg Ct. 16

(Through Video Conference)

Mr. Sadananda Ganguly, Adv.
Ms. Usha Maiti, Adv.
Mr. Sakya Maity, Adv.
...for the petitioners

Mr. Supratim Dhar, Adv.
Mr. Dhananjay Nayak, Adv.
...for the private respondent

Mr. Chandi Charan De, Adv.
Mr. Anirban Sarkar, Adv.
...for the State respondents

The writ petition is directed against an order dated 3rd March, 2020 passed by the learned West Bengal Land Reforms and Tenancy Tribunal by which an application filed by Panchayat Samity, Bhagwanpur-I, Purba Medinipur and Sabhapati, Bhagwanpur-I, Purba Medinipur was allowed.

The applicants in the said application for addition of party prayed for their addition in the proceeding on the ground that the land in question is the vested government land and the applicants being the Krishi Sech O Samabaya Sthayee Samiti in its meetings held on various dates decided unanimously to establish Kishan Mandi at Bhagwanpur Block-I and for that purpose various applications were made before the concerned Block Land & Land Reforms Officer as well as before the Block Development Officer to grant patta in the name of the said

Kishan Mandi of the land measuring about 2 acres. In the event the land in question is settled in favour of the writ petitioners, it may seriously prejudice their right to establish a Kishan Mandi in the larger public interest. It is stated that the presence of the said applicants is necessary to enable the Court to effectively and completely adjudicate upon and settle all the questions in their favour in this matter.

Two Big Raiyat proceedings were initiated and in that proceedings two plots were vested to the State. Initially, the petitioners challenged such ex-parte vesting proceeding. The initial challenge was by the big riayats and thereafter by the persons claiming to have interest in the land through succession or otherwise.

In or about 1st April, 2018, a proceeding was initiated before the learned West Bengal Land Reforms and Tenancy Tribunal in which challenge was thrown to the notice under section 57 of the WBLR Act read with section 49A of the said Act issued by the authority concerned dated 31st January, 2018. In view of the fact that the said notice was issued without giving any reasonable opportunity of hearing to the petitioners, the said application was disposed of by an order dated 25th April, 2018 directing the authority concerned to dispose of the said representation made by the writ petitioners against the said impugned notice by a reasoned order within a period of three months from the date of communication of the said order.

As a consequence of the said direction, hearing took place between 4th June, 2018 and 12th July, 2018. The Sub-Divisional

Land & Land Reforms Officer passed the impugned order on 12th July, 2018 by which the representation made by the petitioners pursuant to the notice under section 57 of the WBLR Act read with section 49A of the said Act was rejected. This order is now under challenge before the learned Tribunal in O.A. 2752 of 2018.

In the said proceeding, the Panchayat Samity has filed an application for addition of party on the ground stated above. The learned Tribunal after taking into consideration the law settled on the point namely that a party seeking to be impleaded as a party to a proceeding must demonstrate that it has a direct and substantial interest in the subject matter of the proceeding allowed the said application for addition of party on a prima facie satisfaction that in the event the said proceeding is allowed in favour of the writ petitioners, that would adversely affect the interest of the applicants.

It is important to note that, on 12th July, 2018, the applicants were not considered to be heard at all by the authorities concerned in deciding the notice under section 57 of the WBLR Act read with section 49A of the said Act. The present proceeding before the learned Tribunal is merely an extension of the proceeding that was initiated before the authority by way of availing statutory remedy. The presence of the applicants was never felt necessary at the time the said matter was heard by the authority concerned. In the original application the petitioners have not claimed any relief against the Sabhapati in respect of controversy involved. It may be that the applications have been filed by different persons or parties for

settlement of vested land in their favour. In Big Raiyat proceedings the big land has been vested in favour of the State of West Bengal. The present petitioners did not admit such vesting and in fact, the prayer (a) in the original application is a challenge thrown to the said two notices by which they were directed to vacate the two plots i.e. plot no. 600 and 611 of J.L No. 115 of Mouza Rampur for deciding this matter. The presence of parties sought to be added or have been added by the Tribunal was not required at all. The persons sought to be added cannot by way of addition refer to an issue which is in conflict with the reliefs claimed by the applicants and in that proceeding, he cannot claim any relief. The action of the State directing the original applicants to vacate the plots in question is the subject matter of challenge in the original application.

The Samity and its Sabhapati may have grievance against the State for not settling the vested land in their favour but such dispute can be the subject matter of a proceeding if initiated by them, in the event their application for settlement is pending.

It is well-settled that the Court or Tribunal may not allow a party to be added in a proceeding if such addition ultimately results in enlarging the scope of the enquiry in the original proceeding. The addition of the Sabhapati in the instant original application, in our view, would enlarge the scope of such application.

In such view of the matter, we are of the opinion that the Panchayat Samity and its Sabhapati are neither necessary parties nor proper parties and their addition is neither required nor

proper for the purpose of adjudication of the issues raised in the application pending before the Tribunal.

An apprehension is raised by Mr. Dhar that the State Government may settle the properties without settling the claim of Mr. Dhar's clients. It is needless to mention that the State government will consider the application pending for settlement in accordance with law. It would be preposterous at this stage to suggest that any order in favour of the writ petitioners are likely to affect Mr. Dhar's clients as such application has not been considered at all and it is also not clear whether the plots of land over which the notice has been served are likely to be settled in favour of Mr. Dhar's clients.

In view of the reliefs claimed in the petition, we are of the opinion that in deciding the said issue the presence of the Panchayat Samity is not required at this stage.

With this observations, the writ petition being WPLRT 39 of 2020 is disposed of.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)