

16.03.2022

WPLRT 5 of 2022

Court : 04
Item : PB-01
Matter : WPLRT
Status : DO
Transcriber: nandy

Rabiul Hossain

Vs.

The State of West Bengal & Ors.

Mr. Sarwar Jahan, Advocate

Mr. Md. Ashraful Huq, Advocate

.....for the Petitioner

Mr. S.N. Mookherjee, Learned Advocate General

Mr. Soumitra Bandopadhyay, Advocate

Mr. Ram Chandra Guchait, Advocate

.....for the State

Mr. Rwitendra Banerjee, Advocate

Mr. Shibasis Chatterjee, Advocate

Mr. Sandip Kundu, Advocate

.....for the Respondent No. 7

The Block Land & Land Reforms Officer, Beldanga II, Murshidabad is personally present in Court today and filed the written explanation in the form of an affidavit. Let the said affidavit be kept with the record.

The reason for calling the said officer in person was that though the notice was issued by him fixing a date for hearing on October 8, 2021 but it appears from the record that the final order was passed on September 30, 2021 before the date so fixed. Such undisputed facts created an impression in the mind of the Bench that the said officer has acted in lopsided manner and in fact, have violated all the norms for the reason which was undisclosed to us.

The affidavit containing the explanation would reveal that after the order of the B.L.&L.R.O was set aside by the appellate authority and a direction was passed to restore the plot nos. 305, 291, 304/694 of Mouza Pilkhana by deleting from Khatian No. 785 to the Khatian of Jagannath Dubey and Abani Dubey in terms of the decree of the Civil Court, access was made to an online portal dedicated for such purposes but because of the mistake in choosing the correct module the date was auto-generated and to keep the record in tune with the same, the order was shown to have been passed on September 30, 2021.

In course of the hearing, it is submitted by the learned Advocate General that an impression was created in the minds of the said officer that once the order is passed by the appellate authority directing the restoration of the entry in the record of rights, there was no necessity to any hearing to be provided to either of the parties.

In our view, such impression is misconceived. The moment the matter is relegated back to the said authority to act in terms of the order of the higher authority, the correction is required to be made in presence of the parties.

The learned Advocate General further submits that there was no other consideration behind the curtain in passing such order on September 30, 2021 but it was a misunderstanding of the said officer and error was created due to choosing of wrong option of the software.

Be that as it may, we do not want to go further into the matter believing the statement of the learned Advocate General that it was an outcome of human error without any extraneous factors. The order dated September 30, 2021 cannot be sustained for the simple reason that the notice issued upon the parties discloses the date as October 8, 2021 for their appearances and hearing and, therefore, such order cannot be withstand on the anvil of principles of natural justice.

The order dated **September 30, 2021** is hereby **set aside**.

The Block Land & Land Reforms Officer, Beldanga II, Murshidabad is directed to fix up a date for hearing of the said proceeding and communicate the same to the interested parties including the petitioners and the private respondents and, thereafter, shall proceed to decide the said proceeding finally which should

not exceed fifteen days from the date so initially fixed.

The parties would cooperate with the said officer and shall not seek unnecessary adjournments unless necessitated by unavoidable and unforeseen circumstances.

For abundant precaution it is made clear that we had no occasion to go into the legality and/or validity of the order passed by the appellate authority and the findings made hereinabove shall be restricted to the order passed by the B.L.&.L.R.O in compliance with the order of the appellate authority.

The writ-petition being **WPLRT 5 of 2022** is thus **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

