

01.08.2022

WPLRT 8 of 2022

Court : 04
Item : PB-75
Matter : WPLRT
Status : DISMISSED
Transcriber: nandy

The State of West Bengal & Ors.

Vs.

Shib Shankar Kulshi & Anr.

Mr. T.M. Siddiqui, Learned AGP

Mr. Nilotpall Chatterjee, Advocate

.....for the Petitioner/State

Mr. Mrinal Kanti Ghosh, Advocate

Mr. Sounak Bhattacharya, Advocate

.....for the Respondent

The instant writ-petition is filed at the behest of the State of West Bengal assailing an order dated September 15, 2000 passed in TA 1729 of 2000 (LRTT) by which the proceeding being 57/7AA(Suo)/1996 was set aside and liberty was granted to the authority to draw up a fresh proceeding under Section 14T (3) of the West Bengal Land Reforms Act, 1955.

There is a considerable delay of 22 years in approaching this Court. The delay is sought to be explained by the writ-petitioner in paragraph 26 of the writ-petition. Precisely for such reason, we direct the parties to exchange affidavits and the Petitioner/State filed the affidavit-in-reply to the opposition already filed by the respondents, today. Let the same be kept with the record.

After meticulous reading of the averments made in paragraph 26 of the writ-petition, we find that the knowledge of the impugned order has been imputed through a communication dated February 23, 2009. It is further averred that immediately after receipt of the said communication, there was another proceeding

filed by one Shib Shankar Kulshi and others in OA 654 of 2009 which was disposed of on August 27, 2009 directing the concerned Block Land and Land Reforms Officer (BLLRO), Ghatal, Paschim Medinipore to supply the copy of all orders in terms of the application filed therein. Subsequently, a detailed report was prepared and received by the District Land and Land Reforms Officer (DLLRO) on October 5, 2009 and by virtue of a memo dated January 6, 2010, the concerned BLLRO was requested to start a fresh proceeding in terms of the impugned order. Thereafter, several facts have been narrated concerning different proceedings to have been initiated which, in our opinion, may not be relevant for the present purposes.

The sequel of events narrated in the said paragraph, leaves no ambiguity that despite being represented before the Tribunal on the date when the impugned order was passed, there is a complete silence for nearly nine years. Even for the sake of argument, we overlooked the lapses on the part of the State for such a long time, yet by virtue of a communication dated January 6, 2010, the higher officials directed the BLLRO to initiate a proceeding in terms of the impugned order.

Two things that emerged from the aforesaid statements made in the relevant paragraph, firstly, there is no explanation for a period of nine years between the date of the order passed by the Tribunal

and the said communication dated February 23, 2009; secondly, the higher authority intended to avail of the liberty being granted in the impugned order by directing the concerned officer to initiate a fresh proceeding. We do not find from the other averments that there was any fetter on the part of the State either to comply with the impugned order or any further action in the form of a clarification or review to be taken out.

Though there is no period of limitation provided under the Limitation Act concerning the writ-petition filed before the High Court yet the Court have refused to entertain the writ-petitions after a considerable gap of time, more particularly, in absence of any cogent explanation. Ordinarily, the writ-petitions are entertained if a suit for cause of action can be filed before the Civil Court and the moment such period expired, the Court may refuse to entertain in absence of any convincing explanation offered by such litigant. In that sense there is a nexus with the limitation.

It is beyond cavil of doubt that the High Court exercising writ-jurisdiction may dismiss the proceeding on the ground of delay and laches on the part of the litigant approaching the said forum. Though the same is not a rigid rule yet the Court may refuse to entertain the writ-petition if the litigant approaching the High Court have failed to establish sufficient reasons for such inordinate delay.

There is enormous delay of nearly 22 years and several events/incidents have happened in between and the right may have been created in favour of a third party and, therefore, it would not be prudent on the part of the High Court to entertain such a stale application.

We do not find any justification in the explanation offered for such inordinate delay.

Accordingly, the writ-petition being **WPLRT 8 of 2022** is **dismissed**. No order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)