

26. 27.09.2022
Ct. No.6
Tanmoy

W.P.L.R.T. 9 of 2020

**Shyam Babu Chowdhary
-Versus-
The State of West Bengal & Ors.**

(Assigned)

Mr. Surajit Nath Mitra, Ld. Sr. Adv.,
Mr. Nilanjan Bhattacharya, Adv.,
Mr. Debjit Mukherjee, Adv.,
Mr. Arpan Guha, Adv.,
Mrs. Susmita Chatterjee, Adv.,
Mr. Kaustav Bhattacharya, Adv.

...for the petitioner.

Mr. Chandi Charan De, Ld. A.G.P.,
Mr. Soumitra Bandyopadhyay, Adv.

...for the State.

This writ petition is directed against a judgment and order of the West Bengal Land Reforms and Tenancy Tribunal, passed on August 22, 2019, in O.A. No. 3207/2014 and O.A. No. 3208/2014. One original application was filed by the present writ petitioner and the other was filed by a private limited company controlled by him which had purchased a plot of land adjacent to the plot of land purchased by the present writ petitioner.

The brief facts of the case are that the writ petitioner had purchased a plot of land from the erstwhile owner. The name of the writ petitioner was mutated in the Record-of-Rights. However, the writ

petitioner found that the name of one Bipin Majhi was recorded as the Bargadar. The writ petitioner made an application before the concerned Block Land and Land Reforms Officer (BL&LRO) under the provisions of the West Bengal Land Reforms Act, 1955, for removing the name of the Bargadar since, according to the writ petitioner, there was no Bargadar. Alleging inaction on the part of the concerned BL&LRO, the writ petitioner approached the learned Tribunal. The learned Tribunal kept the matter pending and fixed a very long date for hearing. Being aggrieved by that, the writ petitioner approached this Court by filing W.P.L.R.T. 347 of 2014. This Court called for a field note as also a report from the BL&LRO. After considering the same, a co-ordinate Bench held that the BL&LRO was of the view that there was no sign of Bargadar in the concerned land and it would be futile to remand the matter back to the learned Tribunal for adjudication. The Bench itself directed the BL&LRO to carry out necessary correction in the Record-of-Rights by removing the name of the Bargadar.

Such order of the Division Bench was carried to the Hon'ble Supreme Court by the State of West Bengal by filing a Special Leave Petition. By an order dated February 11, 2019, the Hon'ble Supreme Court held that the High Court was not justified in deciding the matter only on the basis of the Report of Amin. The appropriate

course would have been to send back the matter to the learned Tribunal for adjudication on merits.

Accordingly, the Hon'ble Supreme Court set aside the order of the High Court and remitted the matter back to the learned Tribunal after giving direction for exchange of pleadings.

Upon such remand, the learned Tribunal has passed the order dated August 22, 2019, dismissing the original application of the present writ petitioner. Such order is under challenge in this writ petition.

We find from the records that pursuant to an order of a co-ordinate Bench, the Officer-in-Charge, Jagacha P.S., Howrah Police Commissionerate, made a communication dated March 2, 2020 to the learned Government Pleader, High Court, Calcutta, which has been placed on record. It appears from such communication and annexures thereto, that the named Bargadar, Bipin Majhi has passed away. His son, Bhuto Majhi, drives a Toto to earn his living. He has given a written declaration in his own hand to this effect. Bhuto Majhi has also been brought on record. However, he has never appeared.

We have heard Mr. Surajit Nath Mitra, learned Senior Advocate appearing for the writ petitioner, at length. He contended that the learned Tribunal erred in deciding the matter on merits. The simple grievance of the writ petitioner before the learned Tribunal was

inaction on the part of the concerned BL&LRO. The learned Tribunal should have sent back the matter to the BL&LRO with a direction to dispose of the application of the writ petitioner under Section 17 of the West Bengal Land Reforms Act, 1955, within a specified period of time, in accordance with law.

Mr. Chandi Charan De, learned Additional Government Pleader representing the State, says that once a Bargadar's name is recorded in the Record-of-Rights, the Barga does not get terminated automatically even after the death of such Bargadar. It has to be terminated following due process of law. Prior to termination of Barga, transfer of the concerned land is impermissible as per Section 15(2) of the West Bengal Land Reforms Act, 1955.

We are not inclined to consider the submissions of Mr. De on merits. We are of the view that the learned Tribunal was not justified in taking up the matter for disposal on merits. The learned Tribunal ought to have sent the matter back to the concerned BL&LRO for deciding the application of the writ petitioner under Section 17 of the West Bengal Land Reforms Act, 1955.

The order under challenge is set aside. We direct the concerned BL&LRO to consider and dispose of the writ petitioner's application under Section 17 of the West Bengal Land Reforms Act, 1955, in accordance with law, by passing a reasoned order, within a period of twelve

(12) weeks from the date of communication of this order, after giving sufficient opportunity of hearing to the writ petitioner and all concerned parties. If the BL&LRO allows the application of the writ petitioner, consequential action will be taken by him.

We have not gone into the merits of the case at all. The BL&LRO will decide the application of the writ petitioner without being influenced by any observation in the order of the learned Tribunal which is impugned before us or any observation in this order and in the light of the order of the Hon'ble Supreme Court of India, referred to above.

Since we have not called for affidavits, the allegations made in the writ petition shall be deemed not to have been admitted by the respondents.

The writ petition being W.P.L.R.T. 9 of 2020 is accordingly disposed of. However, there will be no order as to costs.

Let urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)