

44 17.06.22

Ct. No. 04

Akd

WPLRT 25 of 2022

**Sadhan Chandra Mondal & Ors.
Vs.
The State of West Bengal & Ors.**

**Mr. Biswarup Biswas,
Mr. Gora Chand Samanta.
... for the petitioners.
Mr. Anirban Ray, Ld. G.P.,
Mr. T.M. Siddiqui,
Mr. Nilatpal Chatterjee.
... for the State.
Mr. Partha Pratim Roy,
Mr. Anirban Das,
Ms. Poulami Chakraborty.
... for the private respondents.**

A technical plea has been taken by the petitioners that the appeal under Section 54 of the West Bengal Land Reforms Act, 1955 is akin to an appeal under Section 96 of the Code of Civil Procedure and, therefore, non-party to a proceeding before the original authority cannot maintain the appeal under the aforesaid provision without seeking a leave to appeal.

The learned Advocate for the petitioners further submits that the aforesaid plea was taken before the Appellate Authority at the time of considering an application for condonation of delay; but without advertng to the aforesaid point, the Appellate Authority proceeded to condone the delay, which constrained the petitioners to file an application before the West Bengal Land Reforms and Tenancy Tribunal being OA 2738 of 2018.

The same contention was raised thereat but it appears from the orders passed by the Tribunal, copies whereof are annexed with the instant

application, that a direction was made upon the private respondents, being the appellants before the Appellate Authority, to file affidavit-in-opposition within 18th April, 2022, when the said tribunal application was fixed for final disposal.

Considering the point so agitated the Tribunal found that there is no necessity of inviting the State to disclose their stand and precisely for such reason no direction was passed upon the State to file affidavit-in-opposition.

We also concur with the view of the Tribunal more particularly when a plea of such nature was taken and being seminal point in the said application filed before the Tribunal.

However, we find that justice would be sub-served if the Tribunal dispose of the main proceeding, as any decision taken thereupon by us will put a fetter on the part of the Tribunal to take an independent decisions in the said proceeding.

We have given to understand that despite the direction for filing affidavit-in-opposition on or before 18th April, 2022, the private respondents did not file the same. We are further informed that the next date is fixed in the month of August, 2022.

We thus find that justice would be sub-served if the private respondents file the affidavit-in-opposition and date for hearing is preponed to secure the disposal thereof.

Accordingly we direct the private respondents to file affidavit-in-opposition by 24th June, 2022; reply

thereto, if any, shall be filed within 29th June, 2022. The Tribunal shall prepone the date of hearing already fixed and shall see that the tribunal application is disposed of within fortnight from 29th June, 2022 by passing reasoned order in accordance with law.

The writ petition is thus disposed of.

There will be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)