

19.04.2022

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Sl. No. 185

Ct. No. 09

WPA 5322 of 2022

With

IA NO: CAN/1/2022

Sri Mansaram Mondal & Anr.

-Versus-

The State of West Bengal & Ors.

Mr. Kushal Chatterjee

Mr. Sudarsan Halder

..... for the petitioner

Mr. Jahar Dutta

Mr. Bipin Ghosh

.... for the State

Mr. Srijan Nayak

Mr. Biplab Das

..... for the respondent Nos.2, and 4

Mr. Keshab Chandra Das

Ms. Aparajita Mondal

Mr. Biplab Adak

..... for the respondent No. 5

Mr. Debabrata Saha Roy

Mr. Neil Basu

..... for the added respondent

In Re: CAN 01 of 2022

Learned counsel for the applicant submits that the applicants are the lessees of the land-in-dispute and, as such, would be directly affected by the outcome of the present writ petition, which has primarily been moved *inter alia* challenging such lease granted to the applicants.

Upon hearing learned counsel for the parties, it is evident that the applicants shall directly be affected by the result of the writ petition, whichever way the same may go. Hence, the applicants are necessary parties to the present writ petition.

As such, CAN 1 of 2022 is allowed, thereby directing the applicants to be impleaded as respondents to the present writ petition. Leave is granted to the learned Advocate-on-record for the writ petitioner to amend the writ petition accordingly during the course of the day.

Now the main writ petition is taken up for hearing.

In Re: WPA 5322 of 2022

Learned counsel for the writ petitioners contends that the respondent No.5-Co-operative Society, although an agricultural Society, has let out certain properties to the added respondents for non-agricultural purposes, which is entirely contrary to law and *de hors* the principles of the co-operative movement itself.

It is further contended that proper conversion was not even effected in respect of the said agricultural lands prior to such lease being granted.

However, learned counsel appearing for the Co-operative Societies disputes such contention.

Learned counsel appearing for the Registrar, Co-operative Societies submits that, on the complaint lodged by the writ petitioners, the matter has already been assigned to the Assistant Registrar, Co-operative Societies, that is, the respondent No. 4 herein.

Learned counsel appearing for the added respondents contends that only two out of the 861 members of the Co-operative Societies have preferred the present challenge. Moreover, it is submitted that the writ petition has been filed to bypass the time-bar stipulated in Section 102(2) of the West Bengal Co-operative Societies Act, 2006. It is further submitted that a conversion of the land-in-question actually took place in the year 2021.

Such contentions are disputed in turn by learned counsel for the petitioners.

Be that as it may, Section 102 of the West Bengal Co-operative Societies Act, 2006 clearly provides for disputes of the present nature to be filed before the Registrar, Co-operative Societies. Sub-Section (2) of the said Section clearly stipulates a limitation of three months from the date on which the cause of action arises for preferring such challenge.

However, Sub-Section (3) of Section 103 also empowers the Registrar to admit any dispute after the expiry of the period of limitation of the applicants can show sufficient cause for not filing the dispute within such period of limitation and the disputes so admitted shall not be barred by limitation.

In such view of the matter, this Court does not intend to entertain the application under Article 226 of

the Constitution prematurely, thereby usurping the jurisdiction of the Registrar and/or any other officer to whom the dispute may have been assigned for hearing by the Registrar.

As such, WPA 5322 of 2022 is disposed of by directing the respondent no. 2 to decide the dispute raised by the writ petitioners vide their communication dated February 18, 2022, annexed at page 23 of the present writ petition and/or to assign the same immediately, if not already assigned, to the respondent No. 4, that is, the Assistant Registrar, Co-operative Societies, Government of West Bengal for the purpose of deciding the same upon giving appropriate opportunity of hearing and production of relevant materials to all the contesting parties.

Further liberty is granted to the petitioners to apply before the Registrar and/or the Assistant Registrar, to whom the matter is assigned, if at all, to pray for condonation of delay under Section 102(3) of the 2006 Act and, in the event such prayers succeeds, to make interim prayers as well.

However, it is categorically clarified that this Court has not gone into the merits of the contentions of any of the parties herein and it will be open to the respondent No. 2 or respondent no. 4, if the matter is assigned to the latter, to decide the dispute, subject to condonation of delay in referring the same, if at all, as

well as to consider other interim prayers of the parties, all in accordance with law and without being influenced in any manner by any of the observations made herein. It is further made clear that this order and/or direction shall not prejudice the rights and contentions of the added respondents and/or the writ petitioners and/or the Co-operative Societies insofar as any other complaint, which might have been lodged by the said parties between themselves, is concerned.

Let such exercise, as directed above, be completed by the respondent No. 2 and/or respondent No. 4, if the latter has been assigned the matter, as expeditiously as possible, preferably within June 30, 2022.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Sabyasachi Bhattacharyya, J.)