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2022
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WPLRT 66 of 2022

Paresh Chandra Maji and others
Vs.
The State of West Bengal and others.

Mr. Mrinal Kanti Ghosh,
Mr. Shankar Mukherjee.
... for the petitioners.

Mr. Chandi Charan De,
Mr. Soumitra Bandyopadhyay,
Mr. Anirban Sarkar.
... for the State.

The instant writ petition is directed against an order dated 18th January 2022 passed by the West Bengal Land Reform and Tenancy Tribunal in OA 2026 of 2020 (LRTT) whereby and whereunder the same was dismissed as the application appears to be misconceived and premature.

It is beyond cavil of doubt that the scheme of the West Bengal Land Reform and Tenancy Tribunal Act provides that before the Tribunal is approached, the party must exhaust all statutory remedies available under the specified Act and cannot bypass such provisions and directly approached the Tribunal. However, the exceptions have been carved out in exceptional circumstances, which, in our mind, do not appear to have existed in the instant case.

The irony of the thing can be visualized in the manner the reliefs are couched in the tribunal application. The impression one could gather from bare reading of the reliefs claimed in the tribunal application

that the point, which is yet to be adjudicated by the statutory authority, the Tribunal was invited to decide the same.

Now, it is submitted by the learned Advocate for the writ petitioners that actually the writ petitioners intended to have a direction upon the statutory authority to take a decision on the pending representation/application and not inviting the Tribunal to decide the said application by surpassing the statutory jurisdiction bestowed upon the said statutory authority.

There is no doubt in our mind that the writ petitioners are prevaricating the stand at different stages of the proceedings that too with the acumen of the legal expert upon realizing the hurdles and obstacles created under the statute. It is a calculated attempt on the part of the writ petitioners to get the decision from the Tribunal and the moment it is realized that the law put a fetter in such pursuit, the different approach is taken.

We cannot concur with the aforesaid conduct of the writ petitioners but equally we cannot ignore that the deserving cases should not be defeated on such count alone, as the justice is the virtue.

Obviously, the statutory authority cannot sit over the application for all time to come but must decide the same within the framework of the statutory provisions so that the person approaching them would have a certainty in the claim and not to remain in lurch.

Though we do not find any infirmity in the impugned order but because of the stand having taken before us, we intend to interfere with the said order and decide the same and direct the concerned authority, before whom the representation/application is pending, to dispose of the same within four weeks from the date

of communication of this order by recording proper reasons in accordance with law.

For abundant precaution it is hereby made it clear that the said authority shall not be swayed by the observations recorded in the impugned order or in the instant order if touches upon the merit and shall decide the same independently.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)