

10. 01.04.2022
Ct. No.06
Tanmoy

M.A.T. 485 of 2014

**Renuka Nag Chowdhury & Ors
-Versus-
The State of West Bengal & Ors.**

**With
IA No: C.A.N. 1 of 2014 (Old No: C.A.N. 4013 of 2014)
(file not here)
With
IA No: C.A.N. 4 of 2015 (Old No: C.A.N. 2012 of 2015)
(file not here)
With
IA No: C.A.N. 10 of 2022
(file not here)**

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Md. Younush Mondal, Adv.,
Mr. Raju Bhattacharyya, Adv.,
Mr. Arunava Maiti, Adv.,
Mr. Tanweer J. Mandal, Adv.,
Mr. Surath Choudhury, Adv.

...for the appellants.

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Rabindra Narayan Dutta, Adv.,
Mr. Hare Krishna Halder, Adv.

...for the State respondents.

Mr. Ramdulal Manna, Adv.,
Mr. Swapan Kr. Mallick, Adv.,
Ms. Sudeshna Das, Adv.,
Mr. Sayan Mukherjee, Adv.

...for the respondent nos. 6 to 10
& 18 to 23.

Mr. Supratim Dhar, Adv.,
Mr. Raghunath Chakraborty, Adv.,
Mr. Mahaboob Ahmed, Adv.

...for the respondent nos. 13, 15 and 16.

By consent of the parties, the appeal and the
connected applications are taken up together for hearing.

Two brothers, Haripada Nagchowdhury and Krishnadhan Nagchowdhury, are the predecessors-in-interest of the present parties to this litigation.

In a proceeding under Section 44(2a) of the West Bengal Estates Acquisition Act, 1953, the Revenue Officer and Assistant Settlement Officer passed an order dated April 18, 1980 to the effect that the name of Haripada shall be recorded after deleting the name of Krishnadhan in the concerned Record of Rights pertaining to the properties in question.

Krishnadhan's heirs challenged the aforesaid order of the Settlement Officer by way of a statutory appeal before the Additional District Judge, Alipore being E.A. 47 of 1980. The appeal, however, was dismissed for default on September 9, 1991.

In the meantime, alleging that the order of the Settlement Officer was not being implemented, Haripada's legal heirs filed a writ petition before a learned Single Judge of this Court being C.O. 1879W of 1989. By an order dated February 2, 1989, the writ petition was disposed of. That is the order impugned in this appeal. The operative portion of the order reads as follows:

“Accordingly, the respondents concerned are directed to correct the record of rights pursuant to the determination made in the proceeding under section 44(2a) of the West Bengal Estates Acquisition Act in Case No.69/1979 within eight weeks from the date of communication of this order and until the same is done the respondents concerned are directed not to

disturb the the petitioners' possession of the land and/or to distribute the land in question to any other person and the L.R. Khas Khatian No.1 and the L.R. Khatian No.187 in Mouja Deganga should not be given effect to."

It appears that the said order was acted upon by the relevant authority and the Record of Rights was corrected in favour of the legal heirs of Haripada.

Krishnadhan's heirs approached the appropriate Authority under the West Bengal Land Reforms Act contending that the Record of Rights should be re-corrected in their favour. The concerned Authority rejected such prayer. Krishnadhan's heirs preferred an appeal under Section 54 of the West Bengal Land Reforms Act. By an order dated January 31, 2013, the Additional District Magistrate (ADM) and the District Land and Land Reforms Officer (DL&LRO), being the appellate authority, disposed of the appeal with the following observations:

"Thus in view of the facts so discussed it is apparent that any change in the LR R-O-R would necessarily entail the modification of RS R-O-R to that effect and that cannot be done unless and until the order passed in the case no.69/79 u/s 44(2a) of the said Act is nullified by the appropriate authority. The appeal is therefore rejected. The appellants are however at liberty to move appropriate forum against the order of Ld. A.S.O. in case no.69/79 u/s 44(2a)."

We are told that against the aforesaid order of the ADM and DL&LRO, the present appellants filed an

application before the West Bengal Land Reforms and Tenancy Tribunal being O.A. No. 2169 of 2013. However, such application has been dismissed on February 9, 2022.

It thus appears that the order impugned before us was acted upon by the relevant Authority. The action of such Authority taken pursuant to the order impugned was challenged by Krishnadhan's heirs being the present appellants. Such challenge has failed. It was only thereafter that the present appeal was filed in the year 2014. In our view, this appeal is still-born. There never was, nor there now is anything in the appeal. In any event, the order impugned warrants no interference. The learned Judge merely directed implementation of an order passed by a competent Authority, such order having attained finality, not having been interfered with by any higher forum.

Mr. Bhattacharyya, learned Senior Advocate appearing for the appellants, submits that the Appellate Authority in the proceedings under the West Bengal Land Reforms Act granted liberty to his clients to challenge the order dated April 18, 1980, passed by the Settlement Officer in Case No. 69/1979 under Section 44(2a) of the West Bengal Estates Acquisition Act, 1953. We make no comment in this regard. If the appellants are entitled to challenge the said order of the Settlement Officer before

any appropriate forum in accordance with law, they will be naturally at liberty to do so.

The appeal being M.A.T. 485 of 2014 and the connected applications being IA No: C.A.N. 1 of 2014 (Old No: C.A.N. 4013 of 2014), IA No: C.A.N. 4 of 2015 (Old No: C.A.N. 2012 of 2015), IA No: C.A.N. 10 of 2022 are disposed of.

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

(Kausik Chanda, J.)

(Arijit Banerjee, J.)