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2022**
Ct. No. 04

Ab

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

WPLRT 78 of 2022

Sri Rohit Kumar Sarawgi
Vs.
The State of West Bengal and others.

Mr. Saptansu Basu,
Mr. Supratim Laha,
Mr. Avirup Mondal,
Ms. Ahana Ghosh Mondal.
... for the petitioner.

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

Mr. Animesh Mookerjee,
Mr. Md. Ali Ahasan.
... for the private respondents.

The instant writ petition arises from an order dated 22nd December 2021 passed by the West Bengal Land Reforms and Tenancy Tribunal disposing of the tribunal application being OA 258 of 2021 upon vacating the interim order and passing a direction upon the Block Land and Land Reforms Officer, Purulia-I, District – Purulia, to comply with the order dated 11th May 2017 passed by the Tribunal in OA 1104 of 2015 in accordance with law preferably within six months from the date of communication of that order upon affording a reasonable opportunity of hearing to all interested persons.

The earlier tribunal application being OA 1104 of 2015 was filed challenging the several notices issued by the said authority contemplating to proceed with the

matter. It was the contention of the writ petitioner that he has filed a title suit being no. 196 of 2014 before the Court of the learned Civil Judge (Senior Division), Purulia seeking a decree for declaration of his title in respect of the property described in the schedule thereto and also permanent injunction restraining the principal defendants and added defendants from disturbing the peaceful possession of the writ petitioner in respect of the suit land till the disposal of the suit.

For the purpose of making the record straight, we must observe that the State of West Bengal was the proforma defendant in the said suit. Ultimately, the application for temporary injunction was disposed of directing the parties to maintain *status quo* with regard to the nature, character and possession in respect of the suit property till the disposal of the suit.

Subsequently, another tribunal application was taken out alleging inaction on the part of the said authority from proceeding on the basis of the representation filed by the parties. The said tribunal application was disposed of directing the authority to consider the representation and dispose of the same within a timeframe. After the aforesaid order is passed, a proceeding was initiated by the said authority and our attention is drawn to the order dated 24th April 2019 passed by the said authority wherein it is opined that following the judicial discipline and to pay respect to the judicial forum, it would be apposite to adjourn the present proceeding *sine die* without considering the merit involved in the case.

The aforesaid decision was passed by the said authority upon noticing the order of temporary injunction passed by the civil court in the said suit. Subsequently, a further notice was issued under Section 57 of the West Bengal Land Reforms Act, 1955 by the

said authority contemplating to proceed with the said matter and inviting the attention of the writ petitioner to submit all the relevant papers and documents in support of the claim.

Challenging the aforesaid notices, the instant tribunal application was filed and an interim order in the form of restraining the said authority to proceed on the basis of the said notices was passed. An application for vacating was taken out and by the impugned order not only the said application was allowed but the original tribunal application was also disposed of following the manner as indicated herein above.

The first and foremost point, which involved in the instant case, is whether the authority can *suo motu* proceed with the matter after taking a conscious decision that the said matter should be adjourned *sine die*, more particularly, till the disposal of the said title suit.

The basis on which the interim order was vacated and the original tribunal application was disposed of appears to be founded on the fact that the State of West Bengal was not a party in the said suit and, therefore, there cannot be any fetter on the part of the State in proceeding with the said matter. As indicated above, the copy of the plaint annexed to the instant writ petition would reveal that the State was a party in the said suit and, therefore, the aforesaid finding is factually incorrect.

Be that as it may, once the authority has taken a decision to adjourn the matter *sine die* because of the intervening order of temporary injunction and the suit touching upon the title of the said property, unless the statute provides the power upon the said authority to recall its earlier order of its own, it cannot take further action by changing its earlier opinion. The power to

recall or review its order must be eminently present in the statute, which is the genesis of very existence of the said authority. Unless such power is provided, the authority cannot usurp such power invoking the plenary jurisdiction, which is conspicuously absent.

Neither it is a case of mistake nor an error, as the order dated 24th April 2019 was passed upon taking into consideration on the existing facts including the order of temporary injunction and the pendency of the title suit before the civil court.

Section 57 of the said Act postulates that the said authority/officer dealing with the proceeding under the said Act shall exercise powers of the civil court for the purpose of the eventualities engulf therein. It does not bestow power upon the said authority to initiate a fresh proceeding as the said provision is procedural in nature and the moment the power to recall or review of its own is conspicuously absent therein, such invocation of power is beyond the statutory framework.

It admits no ambiguity that the statutory authority cannot travel beyond the boundaries of the statutory provisions, as any action taken thereupon is liable to be interfered with by a Court of competent jurisdiction.

It appears to us that the said Block Land and Land Reforms Officer, Purulia-I has acted in excess of the jurisdiction not vested on it and, therefore, such action cannot be sustained.

Accordingly, the order impugned is set aside. Consequent thereupon, the notices being Memo No. 1193/1(3)/BL&LRO/PRL-I/20 dated 9th October 2020 and Memo No. 83/BL&LRO/Purulia-I/21 dated 21st January 2021 are hereby quashed and set aside.

It is open to the contesting parties to take appropriate steps before the said authority, if permissible in law.

With these observations, the writ petition is disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)