

S/L 126(ML)
15.07.2022
Court. No. 19
GB

WPA 11702 of 2022

Swapan Kumar Ghosh & Anr.
VS
The State of West Bengal & Ors.

Mr. Sujit Kr. Rath,
Mr. Sukumar Sarkar,
Mr. Anirban Saha.

...for the Petitioners.

Mr. Tapan Kumar Mukherjee,
Ms. Debdooti Dutta.

...for the State.

Mr. Prosenjit Mukherjee,
Ms. Pouhumi Dutta,
Ms. Tiyasa Ghosh.

... for the Respondent Nos.5 to 7.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioners are the members of the Bainchi CADC Berela Sech-O-Krishi Unnayan Samity Limited (hereinafter referred to as the 'said society'). There are disputes between the members of the said society and the petitioners. The provisions of Section 102 of the West Bengal Co-operative Societies Act, 2006 is attracted.

The petitioners claim that, although the said society has accepted money for supply of water for the purposes of irrigation of certain lands, the said society refused to grant the facility to the petitioners.

Mr. Mukherjee, learned advocate for the said society submits that the land to be irrigated belonged to the grandmother of the petitioners, who was a defaulter. As such, the benefit would not be given to a defaulter member.

The receipts which have been produced by Mr. Rath, indicate that the petitioners had been granted the irrigation facility by the society, on earlier occasions. Mr. Rath further submits that the dispute with regard to the default committed by the grandmother by not repaying the loan taken from the said society, did not have any nexus with the prayer for irrigation. Specially, when the money had been accepted by the society, long time ago, the society was estopped from going back on its own actions.

The Court is unable to understand how the two issues are connected, especially when the society has already accepted the money and had granted the facility on earlier occasions. However, as there is an alternative forum, the petitioner shall approach the concerned ARCS by raising a dispute on the self-same causes of action as pleaded before this Court. The concerned ARCS shall decide the dispute, within a period of one month from receipt of the dispute case. The delay caused due to the pendency of the writ petition, shall be condoned.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)