

71 **26.09.
2022**
Ct. No. 04

Ab

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

WPLRT 97 of 2022

Rejaul Islam
Vs.
The State of West Bengal and others.

Mr. Abhisek Banerjee.
... for the petitioner.

Mr. Md. T.M. Siddiqui,
Mr. Supratim Dhar.
... for the State.

The affidavit of service filed in Court today is kept with the record.

Despite service, there is no representation on the behalf of the private respondents. The State is represented.

The instant writ petition is filed assailing an order dated 23rd March 2022 passed by the West Bengal Land Reforms and Tenancy Tribunal in OA 941 of 2018 whereby and whereunder the said tribunal application was disposed of affirming the order of the appellate authority.

The Tribunal was approached by the petitioner challenging an order dated 9th March 2018 passed by the appellate authority and affirming the order of the Block Land & Land Reforms Officer, Cooch Behar – II where an application for correction of record of right was dismissed.

The impugned order would reveal that the Tribunal in the first paragraph recorded the antecedents of the said appeal and in subsequent paragraphs recorded what the appellate authority transpired in course of deciding the appeal filed by the petitioner. The Tribunal found that in the tribunal application the petitioner has admitted that the name of his father was recorded in the

RS record of right but since he has not challenged the finding of the appellate authority regarding the enquiry and the physical possession in respect of the subject land, the tribunal application deserves dismissal.

The Tribunal appears to have disposed of the tribunal application in a slipshod manner without returning its finding on the issues involved therein. The moment the order of the appellate authority is challenged in its entirety, the very foundation of the said order is also under challenge. The appellate authority appears to have dismissed the said appeal based on the enquiry conducted in course of the said proceeding and a contrary finding having found from the presumptive value of the entry in the record of right.

It is the ardent duty of the Tribunal to record reasons on the findings of the appellate authority upon giving an opportunity of hearing to the respective parties and not to adopt an easy path to affirm the order of the appellate authority.

There is no reason, which has been assigned, except narrating the pleadings of the respective parties. The order without reason cannot be sustained nor should be encouraged in an adversarial system of adjudication of the right of the parties. Simply on the ground that the order is bereft of reasons, the same is hereby set aside.

The writ petition succeeds.

The matter is remitted to the Tribunal to decide the same by recording proper reasons and upon affording an opportunity of hearing to all parties in accordance with law.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

