

45 **13.01.
2022**
Ct. No. 04

Ab

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

WPLRT 62 of 2021

Iswar Chandra Chitlangia
Vs.
The State of West Bengal and others.

Ms. Susmita Saha Dutta,
Mr. Niladri Saha.

... for the petitioner.

Mr. Chandi Charan De,
Mr. Anirban Sarkar.

... for the State.

The instant writ petition is filed challenging the order dated 6th August 2021 passed in OA 994 of 2017 (LRTT) passed by the West Bengal Land Reforms and Tenancy Tribunal, 1st Bench, whereby and whereunder the original application was dismissed solely on the ground that there is no infirmity in the proceeding initiated by the revenue officer under Section 57 of the West Bengal Land Reforms Act and, in fact, the original order was passed taking shelter under a specific provision though it incorporates several other provisions mistakenly.

It is further recorded in the impugned order that apart from the plea whether the combined proceeding under Sections 14T(3), 14U, 14M, 14L, 14Y and 14S of the West Bengal Land Reforms Act is maintainable or not, no other point was urged or pressed at the time of hearing and, therefore, is refrained from entering into such point, which would be evident from the impugned order.

Learned Advocate for the petitioner submits that

apart from the aforesaid plea, there are other issues, which are of seminal importance and if those issues are not decided on merit, it would cause greater prejudice to her client.

What is projected before us in the writ petition is that the tribunal ought not to have squeezed itself into one point but must decide the matter on all the points canvassed in the tribunal application.

It is further submitted that there has been a wrong recording of the fact that only one point was raised at the time of hearing by the Counsel appearing for the petitioner before the tribunal.

We would have entertained the writ petition provided the decision is taken on all such points including the point urged before the tribunal on the anvil of the legal parameters. What has been shown to us is that the tribunal has wrongly recorded that the Counsel for the petitioner restricted his argument only one point barring the other would immensely affect the right of the petitioner.

It is no longer *res integra* that if the party is aggrieved by recording of the events happened before the court, the appellate court should be slow and circumspect in interfering with such order. If the events have not been narrated or recorded correctly, it is a prudent duty of the litigant to approach the same learned Judge promptly before such events fade from his memory and not by way of separate proceeding.

Since the point hovers around the recording of the events happened before the tribunal, we do not find any justification in exercising the power of judicial review enshrined under Article 226 of the Constitution of India. However, it is open to the petitioner to approach the tribunal with substantive application raising all the pleas, which have been raised in the instant application and if such approach is made, we expect that the

tribunal would consider the same on merit after affording an opportunity of hearing to all the parties.

With these observations, the writ petition is disposed of.

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

(Harish Tandon, J.)

(Rabindranath Samanta, J.)