

18.10.2023

Court : 04
Item : 04
Matter : WPLRT
Status : SERVICE
Bench ID : 266048
Transcriber : MNS

W.P.L.R.T 2 of 2022

Mor Selim Molla & Ors.
Vs.
The State of West Bengal & Ors.

with

W.P.L.R.T 73 of 2021

Zorina Bibi
Vs.
The State of West Bengal & Ors.

with

W.P.L.R.T 74 of 2021

Istiq Ahmed Laskar & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh, Advocate

..... for the Petitioner

Mr. Chandi Charan De, Advocate
Mr. Anirban Sarkar, Advocate

.....for the State

1. The matter is listed at the behest of the Counsel appearing for the appellants seeking correction of some typographical errors crept up in the judgment dated- 23.12.2022 passed by this Court. At the time of hearing learned Counsel appearing for the appellants submitted that in respect of appeal preferred by Zorina Bibi (W.P.L.R.T 73 of 2021) and Istiq Ahmed Laskar & Ors (W.P.L.R.T 74 of 2021), some numbers, names and facts are not similar with the judgment passed in W.P.L.R.T 2 of 2022 preferred by Mor Selim Molla & Ors and the same is required to be corrected by the Court.
2. Our attention is drawn in respect of some pages of the

judgment passed by this Court in connection with W.P.L.R.T 2 of 2022 wherein it is found that some numbers and names as mentioned in that judgment are not applicable in respect of appeal No(s). W.P.L.R.T 73 of 2021 and W.P.L.R.T 74 of 2021 preferred by the appellants Zorina Bibi and Istiq Ahemed Laskar and Ors. We find that the mistakes are apparent.

3. Let the judgment be corrected in respect of appeal No(s). W.P.L.R.T 73 of 2021 and W.P.L.R.T 74 of 2021 in the following manner:-

Re: W.P.L.R.T 73 of 2021

1. The first and last paragraphs at page 2 of the judgment are to be replaced by the following paragraphs.

“The instant appeal is preferred by the petitioners being aggrieved by and dissatisfied with the order dated 08.11.2021 passed by the West Bengal Land Reforms and Tenancy Tribunal in M.A No. 379 of 2014 (O.A No. 1412 of 2013).

One Birendra Krishna Dutta and others were the R.S. recorded tenants in respect of some plots situated within Mouza Ramkrishnapur under Joynagar Police Station within District 24 Parganas being R.S. Khatian No. 669. In the remark column of the said Record of Rights the name of Rosan Laskar, Ismail Laskar and Khadem Laskar were recorded as ‘Jordong’. Cassem Ali Laskar, Ismail Laskar and Khadem Laskar filed a Title Suit being No. 115 of 1981 against the State of West Bengal and others before the Civil Court at Baruipur praying for declaration of title and permanent Injunction in respect of plots where the names of their predecessor in interest were recorded as ‘Jordong’.”

2. Similarly at page 3 of the judgment following paragraphs are to be replaced in place of the entire 3 paragraphs of that page.

“The said Title Suit being No. 115 of 1981 was decreed by the Civil Court in favour of the plaintiffs. Thereafter the decree holders and their heirs sold and transferred the

plots in question in favour of these petitioners and their predecessors by several registered deeds. An application was submitted before the concerned Block land and Land Reforms Officer by the petitioners for correction of the relevant record of rights. Concerned B.L. and L.R.O disposed of the applications on 06.09.2012 without passing any order for correction of the relevant Record of Rights. The petitioners knocked the door of the Tribunal challenging the order dated 06.09.2012 passed by the B.L. and L.R.O in O.A. No. 1412 of 2013.

The Tribunal disposed of the said case thereby setting aside the order dated- 06.09.2012 with direction upon the authority to consider the mutation case afresh but the concerned B.L. and L.R.O was sitting tight over the matter and did not take any steps as directed by the Tribunal. Finding no other way the petitioners filed an application for contempt being No, 379 of 2014 before the Tribunal. After hearing of both sides the Tribunal dismissed the contempt application by passing the impugned order dated 08.11.2021.

The petitioners/appellants challenged the impugned order dated 08.11.2021 passed by the tribunal before this court by filing this Writ Petition being No. W.P.L.R.T 73 of 2021.”

3. The second paragraph at page 7 of the judgment is to be replaced by the following paragraph.

“By the judgement and decree the learned civil court decreed the suit against the State of West Bengal and declared that the plaintiffs had right, title and interest over the properties in question. Since the prayer of the petitioners for correction of record of rights were not entertained by the concerned Block Land and Land Reforms Officer an application was preferred before the West Bengal Land Reforms and Tenancy Tribunal and the said Tribunal directed the concerned authority to consider the mutation case afresh within time limit as mentioned in the said order. As the authority concerned did not comply the direction of the Tribunal these petitioners filed an

application for contempt being M.A. No. 379 of 2014. In connection with aforesaid application the concerned Block Land and Land Reforms Officer submitted a report dated 29.06.2015 as compliance. It reflects from the said report that it has not followed the direction as made by the Tribunal dated 28.11.2013 and ultimately the contempt application as filed by the petitioners was dismissed by passing the impugned order.”

4. The first paragraph at page 8 of the judgment is to be replaced by the following paragraph.

“We are of the opinion that the tribunal committed gross mistake in holding that the authority concerned has power and authority to question about the decree passed by the competent court of law. The learned tribunal also committed error in not considering the fact that in earlier occasion it gave direction upon the authority concerned to consider the mutation case as filed by the petitioners afresh in the light of judgement and decree passed by the competent civil court in connection with Title Suit No.115 of 1981.”

5. The second paragraph at page 9 of the judgment is to be replaced by the following paragraph.

“Therefore there is no escape from not complying with the judgement and decree passed by the civil court in respect of making necessary corrections in the record of rights. We find that the tribunal committed mistake and error by observing that with due diligence the concerned authority tried to dispose of the case referring various statutory provisions and judicial pronouncements of the Hon’ble Apex Court and Hon’ble Calcutta High Court for consideration of applicant’s mutation cases afresh according to his understanding of the relevant provisions of law which may be right or erroneous. The learned Tribunal ought to have directed the concerned B.L. and L.R.O to make necessary correction in the Record of Rights in terms of the decree passed by the learned Munsiff, 3rd Court, Baruipur in Title Suit No. 115 of 1981 since the said

judgement and decree has not been set aside by any higher forum. Moreover, we find that the concerned authority has no capacity to question about the decree passed by a civil court. When the question of right, title, interest and possession of the plaintiffs in respect of the property in question has already been adjudicated by a civil court then there is no scope to doubt or dispute the position that the decree of the civil court is not binding and the tribunal should not be allowed to question about the said judgment and decree.”

6. Third and fourth paragraphs at page No. 10 of the judgment are to be replaced by the following paragraphs.

“Accordingly, the impugned order dated 08.11.2021 passed by the learned Tribunal passed in connection with case no M.A. 379 of 2014 (O.A. 1412 of 2013) is hereby set-aside.

Thus we dispose of this application by directing the concerned Block Land and Land Reforms Officer to make necessary correction in the record of rights in terms of decree passed by the Munsif, 3rd Court at Baruipur in Title Suit No.115 of 1981.”

Re: W.P.L.R.T 74 of 2021

1. The first and last paragraphs at page 2 of the judgment are to be replaced in place of the entire paragraphs.

“The instant appeal is preferred by the petitioners being aggrieved by and dissatisfied with the order dated 08.11.2021 passed by the West Bengal Land Reforms and Tenancy Tribunal in M.A No. 378 of 2014 (O.A No. 555 of 2013).

One Birendra Krishna Dutta and others were the R.S. recorded tenants in respect of some plots situated within Mouza Ramkrishnapur under Joynagar Police Station within District 24 Parganas being R.S. Khatian No. 669. In the remark column of the said Record of Rights the name of Rosan Laskar, Ismail Laskar and Khadem Laskar were recorded as ‘Jordong’. Cassem Ali Laskar, Ismail Laskar and Khadem Laskar filed a Title Suit being No. 115 of 1981

against the State of West Bengal and others before the Civil Court at Baruipur praying for declaration of title and permanent Injunction in respect of plots where the names of their predecessor in interest were recorded as 'Jordong'."

2. Similarly at page 3 of the judgment following paragraphs are to be replaced in place of the entire paragraphs of that page

"The said Title Suit being No. 115 of 1981 was decreed by the Civil Court in favour of the plaintiffs. Thereafter the decree holders and their heirs sold and transferred the plots in question in favour of these petitioners and their predecessors by several registered deeds. An application was submitted before the concerned Block land and Land Reforms Officer by the petitioners for correction of the relevant record of rights. Concerned B.L. and L.R.O disposed of the applications on 06.09.2012 without passing any order for correction of the relevant Record of Rights. The petitioners knocked the door of the Tribunal challenging the order dated 06.09.2012 passed by the B.L. and L.R.O in O.A. No. 555 of 2013.

The Tribunal disposed of the said case thereby setting aside the order dated- 06.09.2012 with direction upon the authority to consider the mutation case afresh but the concerned B.L. and L.R.O was sitting tight over the matter and did not take any steps as directed by the Tribunal. Finding no other way the petitioners filed an application for contempt being No, 378 of 2014 before the Tribunal. After hearing of both sides the Tribunal dismissed the contempt application by passing the impugned order dated 08.11.2021.

The petitioners/appellants challenged the impugned order dated 08.11.2021 passed by the tribunal before this court by filing this Writ Petition being No. W.P.L.R.T 74 of 2021."

3. The second paragraph at page 7 of the judgment is to be replaced by the following paragraph.

"By the judgement and decree the learned civil court decreed the suit against the State of West Bengal and

declared that the plaintiffs had right, title and interest over the properties in question. Since the prayer of the petitioners for correction of record of rights were not entertained by the concerned Block Land and Land Reforms Officer an application was preferred before the West Bengal Land Reforms and Tenancy Tribunal and the said Tribunal directed the concerned authority to consider the mutation case afresh within time limit as mentioned in the said order. As the authority concerned did not comply the direction of the Tribunal these petitioners filed an application for contempt being M.A. No. 378 of 2014. In connection with aforesaid application the concerned Block Land and Land Reforms Officer submitted a report dated 29.06.2015 as compliance. It reflects from the said report that it has not followed the direction as made by the Tribunal dated 28.11.2013 and ultimately the contempt application as filed by the petitioners was dismissed by passing the impugned order.”

4. The first paragraph at page 8 of the judgment is to be replaced by the following paragraph.

“We are of the opinion that the tribunal committed gross mistake in holding that the authority concerned has power and authority to question about the decree passed by the competent court of law. The learned tribunal also committed error in not considering the fact that in earlier occasion it gave direction upon the authority concerned to consider the mutation case as filed by the petitioners afresh in the light of judgement and decree passed by the competent civil court in connection with Title Suit No.115 of 1981.”

5. The second paragraph at page 9 of the judgment is to be replaced by the following paragraph.

“Therefore there is no escape from not complying with the judgement and decree passed by the civil court in respect of making necessary corrections in the record of rights. We find that the tribunal committed mistake and error by observing that with due diligence the concerned authority

tried to dispose of the case referring various statutory provisions and judicial pronouncements of the Hon'ble Apex Court and Hon'ble Calcutta High Court for consideration of applicant's mutation cases afresh according to his understanding of the relevant provisions of law which may be right or erroneous. The learned Tribunal ought to have directed the concerned B.L. and L.R.O to make necessary correction in the Record of Rights in terms of the decree passed by the learned Munsiff, 3rd Court, Baruipur in Title Suit No. 115 of 1981 since the said judgement and decree has not been set aside by any higher forum. Moreover, we find that the concerned authority has no capacity to question about the decree passed by a civil court. When the question of right, title, interest and possession of the plaintiffs in respect of the property in question has already been adjudicated by a civil court then there is no scope to doubt or dispute the position that the decree of the civil court is not binding and the tribunal should not be allowed to question about the said judgement and decree."

6. Third and fourth paragraphs at page No. 10 of the judgment are to be replaced by the following paragraphs.

"Accordingly, the impugned order dated 08.11.2021 passed by the learned Tribunal passed in connection with case no M.A. 378 of 2014 (O.A. 555 of 2013) is hereby set-aside.

Thus we dispose of this application by directing the concerned Block Land and Land Reforms Officer to make necessary correction in the record of rights in terms of decree passed by the Munsif, 3rd Court at Baruipur in Title Suit No.115 of 1981."

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

