

24 **14.01.
2022**
Ct. No. 04

Ab

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

WPLRT 79 of 2021

Ashis Kumar De and others.
Vs.
The State of West Bengal and others.

Mr. Pratip Kumar Chatterjee.
... for the petitioners.

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

The writ petitioners have filed the instant writ petition challenging the order dated 5th October 2021 passed by the West Bengal Land Reforms and Tenancy Tribunal, 3rd Bench, in OA 2135 of 2018 (LRTT) whereby and whereunder the tribunal application seeking a direction upon the Block Land and Land Reforms Officer, Burwan, Murshidabad, to consider the representation filed by the writ petitioners was dismissed.

The writ petitioners traced the title in respect of the vested land on the basis of the CS Record of Rights and submit that the authority while initiating a proceeding for vesting under Section 14T of the West Bengal Land Reforms Act did not issue any notice to them nor an opportunity of hearing was ever given. It is further contended that the heirs of one Tulsi Das Mondal were given a notice and the proceeding culminated into a final order of vesting in their presence.

A comprehensive representation was made after a

gap of enormous delay as the knowledge of passing an order of vesting is of recent origin. The tribunal rejected the said application as the writ petitioners have an alternative efficacious remedy by way of an appeal and in view of the embargo created under Section 10(3) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, the tribunal cannot entertain any application for such reliefs.

It is not a case of an automatic vesting but a proceeding was initiated under Section 14T alleging that the raiyat is holding the property above the ceiling limit. The contention of the writ petitioners is that the said property was not solely and exclusively owned and possessed by Tulsi Das Mondal but had the other co-sharers being the predecessor of the present writ petitioners and, therefore, the initiation of the proceeding for vesting on the ground of the land having excess ceiling limit is per se illegal.

The representation was made before the Block Land and Land Reforms Officer but the same was not attended to nor such representation is perceived in the statute. Section 54 of the West Bengal Land Reforms Act provides a remedy by way of an appeal against an order passed by the revenue officer, which does not make any distinction as to who can file an appeal. If a person feels aggrieved by the order of the revenue officer, the remedy by way of an appeal is provided in the statute itself and unless such remedy is exhausted in a manner as indicated therein, we do not find any illegality and/or infirmity in the decision of the tribunal in rejecting the prayer for consideration of the representation.

We have been given to understand by the appearing Counsels that the appellate authority had power to condone the delay and, therefore, there is no impediment on the part of the writ petitioners to exhaust such remedy provided in the statute.

We, thus, do not find any illegality and/or infirmity in the order of the tribunal. The writ petition is, thus, disposed of.

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

(Harish Tandon, J.)

(Rabindranath Samanta, J.)