

31.10.2022

WPLRT 127 of 2022

Court : 04
Item : 01
Matter : WPLRT
Status : DO
Transcriber: NANDY

Alpine Distilleries Pvt. Ltd.
Vs.
The State of West Bengal & Ors.

Mr. Saptangsu Basu, Senior Advocate
Mr. Ayan Banerjee, Advocate
Mr. Sanjay Banerjee, Advocate
Ms. Debashree Dhamali, Advocate
Ms. Riya Ghosh, Advocate

.....for the Petitioners

Mr. Supratim Dhar, Advocate
Mr. T.M. Siddiqui, Advocate

.....for the State

Challenging the notice dated March 11, 2022 passed under Section 14T (3) of the West Bengal Land Reforms Act, 1955 where the respondents contemplated to take over the possession of the alleged surplus land, the tribunal application was filed and the matter was mentioned on the ground of urgency. Since the Tribunal did not pay heed to the prayer of the writ-petitioner, the writ-petitioner challenged the aforesaid action of the Tribunal in this Court by filing WPLRT 29 of 2022. The said writ-petition was disposed of taking into account the orders passed by this Court in uniform manner on identical facts and circumstances directing the Tribunal to dispose of the said tribunal application within the time-frame. Simultaneously, this Court also directed the said authorities to restore the entry as it stood prior to the issuance of the aforesaid notices and further restrained the respondents from interfering with the land which has been passed by the relevant Block Land & Land Reforms Officer.

The said order was challenged by the State in Supreme Court in Special Leave to appeal (C) 24839 of 2022. By an order dated 17.10.2022, the Apex Court declined to interfere with the said order upon observing:

5. "In our considered opinion, the directions issued by the High Court being interim/ad hoc in nature, no interference of this Court in impugned order passed by the High Court at Calcutta is called for. Suffice it to observe that the Appellate Authority prescribed under the Act shall consider all the contentions, uninfluenced by the observations made by the High Court in the impugned order and shall decide the appeal on merits, as early as possible but not later than six months from the date of receipt/production of a copy of this order. If there is other remedy of appeal/revision etc., the aggrieved party shall be at liberty to avail such remedy. In case, the State finally succeeds in getting the part of the land declared surplus, it goes without saying that such land shall immediately mutated in favour of the State."

The matter is listed today and our attention is drawn to the order of the Supreme Court as noted above, wherefrom it appears that the appellate authority under the prescribed under the Act was directed to dispose of the proceeding uninfluenced with the observations made by the High Court in the impugned order and purely on its merit and the contentions raised before it, in accordance with law. As a corollary effect, the interim order granted on 16.03.2022 in WP 29 of 2022 is uninterfered with and there is no ambiguity in our mind that the interim order is operative and cannot be defied by any of the parties to the proceeding.

The dispute hinges on the two limbs of the order 16.03.2022. Firstly, that the respondents are restrained from interfering with the possession of the land in terms

of the relevant order of the Block Land & Land Reforms Officer and the correction of the record-of-rights shall immediately be effected and the entry which stood prior to the issuance of the aforesaid notices to be restored.

It is now brought to our notice that despite disposal of the Special Leave Petition declining to interfere with the order dated 16.03.2022 passed in WPLRT 29 of 2022, the State has not restored the entry made in the record-of-rights in terms of the aforesaid notices. We, therefore, direct the State to restore the name of the petitioner by correcting the record-of-rights within a week from date and the consequences thereof would follow in terms of the order dated 17.10.2022 passed by the Supreme Court.

The Tribunal after noticing the said order, disposed of the instant proceeding limiting the interim order which was never intended by this Court while disposing of the writ-petition. The parties are relegated to an appellate authority prescribed under the Act and till such time, the interim order which was passed on 16.03.2022 shall remain operative.

Though the contention is raised by Mr. Saptangsu Basu, learned Senior Advocate, appearing for the writ-petitioner that the said interim order is of perennial nature and to remain operative till the Supreme Court decides the appeal pending before it in relation to Paschim Banga Rajya Bhoomijibi Sangha, we are not accepting the contention of Mr. Basu in this regard after noticing the observations of the Apex Court in the order dated 17.10.2022. The quoted portion of the said order

would manifestly indicate that the appellate authority under the prescribed Act was directed to consider the contention of the respective parties and decide the same on merit and simultaneously it was further observed that in the event, the State finally succeeds in getting the part of the land declared surplus, the land shall immediately be mutated in favour of the State.

The word 'finally' has assumed the centre of debate before us at the behest of the petitioner. According to him the aforesaid word 'finally' has to be interpreted in juxtaposition with pendency of the appeal filed before the Supreme Court in connection with Paschim Banga Rajya Bhoomijibi Sangha and, therefore, the interim order should remain operative till the time the said appeal is decided by the Supreme Court.

We do not find such contention to be tenable for the simple reason that the action of the statutory authorities is challenged before the appellate authority under the prescribed Act and till the time the proceeding is decided finally by the said appellate authority, the interim order should remain operative. However, it is open to the petitioner, in the event, the appellate authority decides the matter against it, to challenge such order as permissible in law and may renew the prayer for interim order which will be decided on its merit. Since the appellate authority is in seisin of the matter and has not decided it finally, we do not find any justification in getting the writ-petition pending, more particularly, when the Apex Court has directed the

appellate authority under the prescribed Act to decide the said appeal within the stipulated time.

With these observations, the writ-petition being **WPLRT 127 of 2022** is **disposed of**.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)