

89 **02.12.
2022**
Ct. No. 04

Ab

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

WPLRT 155 of 2022

Kumardeep Pyne
Vs.

The State of West Bengal and others.

Mr. Shantimay Bhattacharya,
Ms. Piyali Das (Ghosh),
Mr. Suman Bhattacharya.
... for the petitioner.

Mr. Sourav Sen,
Mr. A. Chakraborty.
... for the private respondent.

The instant writ petition arises from an order dated 24th June 2022 passed by the West Bengal Land Reforms and Tenancy Tribunal in OA 1599 of 2022 by which an interim order of stay of operation of the impugned order till the next date had been passed. Curiously enough, the next date is fixed on 10th April 2023 for hearing.

From the impugned order it appears that the private respondent herein challenged the order of the appellate authority passed in Appeal Case no. 615 of 2021 and moved the same for an interim order. The Tribunal passed the interim order staying the operation of the order of the appellate authority without affording an opportunity of hearing to the private respondent, who emerged successful before the appellate authority. Even the reasons required for passing the order of stay does not appear to have been followed rather the order appears to have been passed solely on the ground that the moment the triable issue is involved in the case, the interim order is to be passed automatically.

The dispute relates to the subject property claimed

by both the parties. We have been informed by the learned Advocate appearing for the private respondent herein that a civil suit is pending between the parties and the order of injunction is also passed therein.

In view of the above, we feel that such facts are required to be brought and the petitioner herein should disclose his stand to the aforesaid averments made by the said private respondent. Since the appellate authority has directed the correction of the entry made in the Record of Rights and if the operation of the order is not stayed, which may some times bring a situation irreversible and an unscrupulous litigant may take advantage of the same.

Apart from the same, we find that the Tribunal have not considered the stand of the petitioner herein before passing a final interim order. The order would reveal that on the date of moving the application, the interim order was passed in a final form as the next date is fixed for hearing of the main application. Such course is not recognized in a judicial parlance and the interim order if necessitated by circumstances should be limited to a shorter period and opportunity must be given to a person against whom such order is passed to contest the same.

We, therefore, direct the petitioner to file affidavit-in-opposition to the tribunal application within a week from date; reply thereto, if any, shall be filed within a week thereafter.

We, therefore, restrict the interim order for a period of five weeks from date in view of the fact that we directed the parties to exchange affidavits within a short time herein before. However, liberty is granted to the parties to pray for extension of interim order in the event the matter is not disposed of within five weeks from date and if such prayer is made, the Tribunal shall consider the same after affording an opportunity of hearing to the respective parties by recording proper

reasons in accordance with law.

With these observations, the writ petition is disposed of.

There shall, however, no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)