

05.12.2022
SS

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

W.P.L.R.T. 4 of 2022

**Pradip Prasad
Vs.
State of West Bengal & ors.**

Mr. Jaydeep Kar
Mr. Arindam Banerjee
Mr. Sourito Ganguly
Mr. Sandip Agarwal
.... For the petitioner

Mr. Debjyoti Basu
Mr. Partha Pratim Sarkar
... For the respondent nos.4(a),4(b)
and 4(c)

Mr. Subir Kumar Saha
... for the State

Heard the learned Counsel appearing for the parties.

This is an application under Article 226 of the Constitution of India wherein the order dated September 23, 2022 passed by the West Bengal Land Reforms and Tenancy Tribunal is under challenge.

The main grievance of the petitioner is that the hearing of the matter had taken place before the particular Bench and the order was subsequently passed by different Members of a new Bench without *de novo* hearing taking place. The relevant order is delineated below :

“23.09.22 None appears on behalf of the petitioner on call.

Learned Advocate for Added Respondent No.6 is present.

Learned Advocate for the Pvt. Respondent No.5 is present.

Learned Advocate for Added Respondent No.7 is present.

Learned Advocate for the Respondent Nos.8-18 is also present.

Learned Government Representative is present.

We are unable to appreciate the absence of the petitioner on call as on the earlier date matter was fixed today in presence of all advocates.

It appears from the record that the matter was heard earlier by our predecessors in chair on several dates.

As it was not heard by us, vide order dated 29.08.2022 the matter was decided to be heard de novo.

We have been informed by the Learned Counsels present today that all the contesting sides have filed written notes of argument to assist the Bench.

That being the position and in view of the order of Hon'ble High Court, Calcutta passed in W.P.L.R.T. No.121 of 2018 as well as the submission of the Learned Counsels present today including the Learned Government Representative that they have got no objection if this matter is decided by the Bench on perusal of the record including the respective notes of argument, to save the precious time of litigation.

In view of such submission, the hearing of O.A.1145 of 2014 and O.A.2272 of 2014 is deemed to have been concluded.

C.A.V.”

It appears from the order that on an earlier date the matter was fixed for hearing on September 23, 2022. The notes of argument had been filed by both sides.

Counsel on behalf of the petitioner was not present before the Bench on September 23, 2022.

Learned Counsel for the petitioner contended that they have been prejudiced as the present Bench decided the entire matter upon perusal of the record including the respective notes of argument without hearing the parties. Hearing of both the applications before the Tribunal was deemed to have been concluded and subsequently judgement was delivered on November 4, 2022.

We have considered the submissions made on behalf of both the sides. We are of the view that the principles of *audi alterem partem* was not followed. The new Bench should have heard the matter and only thereafter passed a judgement. The process followed by the new Bench of the Tribunal in concluding the hearing based on written notes of submissions that were filed before the earlier Bench

and concluding the hearing, was in violation of the principles of natural justice.

In light of the same, the orders dated September 23 2022 and November 4, 2022 are quashed and set aside with a direction upon the learned Tribunal to hear out both the applications in an expeditious manner.

The learned Tribunal is directed to fix the date of hearing in advance and no party should be allowed to take adjournment without proper reasons to be recorded by the Tribunal. The Tribunal is further directed to hear out the matter and deliver the judgement within a period of three months from date.

With the above directions, W.P.L.R.T. 4 of 2022 is disposed of.

Since no affidavit is called for, all allegations contained in the petition are deemed not to have been admitted.

We make it clear that we have not gone into the merits of the judgement delivered on November 4, 2022.

(Sugato Majumdar, J.)

(Shekhar B. Saraf, J.)

