

17.05.2023

WPLRT 2 of 2023

Court : 04
Item : 138
Matter : WPLRT
Status : DO
Bench ID :266048
Transcriber: NANDY

Pankaj Kumar Patra & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Manish Kumar Das, Advocate

..... for the Petitioner

Mr. Chandi Charan De, Learned AGP

Mr. Anirban Sarkar, Advocate

..... for the Respondent/State

The petitioner is a post-vesting transferee and filed the writ-petition before the High Court to protect the possession as the Government Officials were contemplating to interfere with the possession. The writ-petition filed before this Court could not be disposed of by the time the West Bengal Land Reforms and Tenancy Tribunal Act came into force and by virtue of the provisions contained therein the said writ-petition was transferred to the Tribunal for consideration.

It would not be out of place to mention that the petitioner was enjoying an interim order against the dispossession or any disturbances being created in peaceful possession thereof in the said writ-petition. However, the writ-petition after being transferred to Tribunal was disposed of directing the concerned authority to treat the said writ-petition as representation and dispose of the same within a time-frame.

Pursuant to the said order of the Tribunal a Misc. Case being 29 of 2005 was initiated but the same could not be disposed of within the time stipulated in the said order by the Tribunal. Further approach was made to the Tribunal seeking a direction to bring the said proceeding to its logical end and a direction was passed upon the authority to complete the said proceeding within six months from the date of communication of the order. The

said Misc. Case 29 of 2005 was finally disposed of on 10.06.2011 rejecting the claim of the petitioner on the basis of the instruction from the DL&LRO, Purba Medinipore. Neither the certified copy was given nor any communication was passed upon the BL& LRO to take an appropriate decision thereupon.

Pursuant thereto, the BL&LRO decided to review the order passed in a Big Rayat Proceeding and disposed of the said proceeding on 27.06.2014. Even after the disposal of the review proceeding, no communication was made for which an application under Right to Information Act was made to ascertain whether the order passed in the Big Rayat Proceeding was reviewed or not, which also could not yield any fruitful result. The Tribunal was further approached for a direction upon the BL&LRO, Nandigram-I, Purba Medinipore to review the B.R. Case in the name of the predecessor-in-interest in the light of the order of the Hon'ble High Court, Calcutta as well as the Tribunal.

An objection was taken by the State that there is no B.R. Case for reviewing the proceeding initiated by the office of the BL&LRO concerned or any direction for reviewing the B.R. Case proceeding was received from the higher authority.

Since the review was done *suo motu* under the West Bengal Land Reforms Act, 1955, it was fairly submitted by the Counsel for the petitioner before the Tribunal that there is no provision contained therein in this regard. In absence of any statutory provision, the statutory authority cannot exercise the power not vested upon it nor can assume such power unless provided. The Tribunal set aside the said order and directed the

concerned BL&LRO to dispose of the Misc. Case No. 09/2014 on the basis of an order of the Tribunal afresh and in the light of the relevant provision as well as directions passed in different proceeding initiated by the petitioner.

We thus do not find any infirmity and/or illegality in the said order, more particularly, on the stand of the writ-petitioner taken before the Tribunal which does not warrant any interference with the impugned order.

However, we grant liberty to the petitioner to take all points available to him at the time of disposal of the said Misc. Case No. 09 of 2014 and it is expected that the BL&LRO shall consider and dispose of the same uninfluenced by any observations made in the impugned order or in this writ-petition.

With these observations, the writ-petition being **WPLRT 2 of 2023** is **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

