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**17.05.
2023**

Ct. No. 04

Ab

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

WPLRT 6 of 2023

**Shantanu Mondal @ Dhali
Vs.**

The State of West Bengal and others.

**Mr. Supratim Dhar,
Mr. Dhananjay Nayak.**

... for the petitioner.

Mr. Duke Banerjee.

... the respondent no. 7 (in person).

Though the order dated 6th July 2022 does not reveal that any prayer for interim order was made, but the learned Advocate appearing for the writ petitioner submits that such prayer was made and it can be presumed that the Tribunal refused to pass an interim order.

The dispute pertains to a proceeding relating to rival rights claimed in respect of the said property. The parties have approached the competent authorities and a *suo motu* proceeding under Section 51A(4) read with Section 57 of the Land Reforms Act, 1955 has been initiated by the Block Land and Land Reforms Officer. It is also not in dispute that a title suit is pending before the Civil Court and, according to the writ petitioner, an order of injunction has been passed, but in violation of the said order, several steps have been taken by the respondent authorities.

We do not intend to go into the aforesaid aspect, as it is open to the writ petitioner to take appropriate steps before the proper forum. However, we are concerned with the interim order as prayed for in the tribunal application

and presumed to have been refused in the impugned order.

The Tribunal was approached at the time when the aforesaid *suo motu* proceeding was pending before the Block Land and Land Reforms Officer on the score that the Block Land and Land Reforms Officer cannot initiate a *suo motu* proceeding nor can correct the CS and RS Record of Rights in exercise of power under Section 51A(4) and Section 57 of the said Act. It is, thus, contended that the entire proceeding is vitiated by a provision of law and, therefore, the interim order should also be passed upon the said competent authorities not to proceed with the said *suo motu* proceeding.

We could have interfered with the order until the respondent no. 7, who appears in person, informed this Court that the said proceeding has culminated into a final order and, in fact, has been disposed of on 22nd September 2022.

Learned Advocate appearing for the writ petitioner showed his inability to the aforesaid fact as such order is neither communicated nor a copy thereof has been supplied.

Be that as it may, the moment the *suo motu* proceeding has come to an end, the cause of action for filing the tribunal application has been diluted because of the subsequent events. Since the Tribunal proceeding has already been initiated and the parties have also entered appearance therein, it would be a sheer wastage of time if the writ petitioner is permitted to initiate a fresh proceeding challenging the said order.

We, therefore, direct the respondent no. 7 to supply a copy of the documents filed before us to the learned Advocate for the writ petitioner in course of this day.

Liberty is granted to the writ petitioner to amend the tribunal application and if any application for

amendment is filed within one week after reopening of the Tribunal following Summer Vacation, the said application shall be decided by the Tribunal within two weeks therefrom after giving an opportunity of hearing to the interested parties.

The Tribunal shall fix the tribunal application after an order is passed on the application for amendment, which shall not exceed beyond one month therefrom and endeavour shall be shown to dispose of the said proceeding within three months from date so fixed by recording proper reasons and giving an opportunity of hearing to the contesting parties.

With these observations, the writ petition is disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)