

DL-8

03.08.2023
Court No.5
(AD)

WPLRT 35 of 2023
With
IA No.:CAN 1 of 2023

Shyamal Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Supratim Dhar
Mr. Tirupati Mukherjee

... for the petitioner.

Md. T.M. Siddiqui, Ld. AGP
Mr. Mrinal Kanti Ghosh

... for the State.

*In Re.: **IA No.:CAN 1 of 2023***

CAN 1 of 2023 is an application for restoration.

In view of the pleading contained in such application and for the ends of justice, we recall the order of dismissal dated July 14, 2023 and restore **WPLRT 35 of 2023** to its original file and number.

IA No.:CAN 1 of 2023 is disposed of.

*In re.: **WPLRT 35 of 2023***

The writ petitioner assails an order dated January 16, 2023 passed in O.A. No.2265 of 2019 by the West Bengal Land Reforms and Tenancy Tribunal.

By the impugned order, the Tribunal refused to interfere with the order dated June 14, 2018 passed by the concerned Block Land & Land Reforms Officer in Misc. Case No.702 of 2018.

Learned Advocate appearing for the writ petitioner submits that, the writ petitioner filed a Form-B under the provisions of the West Bengal Estate Acquisition Act, 1953. The land in question is below the ceiling limit described under the provisions of the Act of 1953. A khanda khatian was already opened in the name of the predecessor-in-interest of the petitioner in respect of the land concerned. Therefore, the concerned Block Land & Land Reforms Officer erred in fact and in law in rejecting the Form-B submitted by the writ petitioner. Tribunal erred in upholding the decision of the concerned Block Land & Land Reforms Officer.

Learned Advocate appearing for the State submits that, under the provisions of the Act of 1953, the land stands vested with the State. A Form-B is required to be submitted. The Form-B is required to be assessed on the parameters specified by and under the Act of 1953. The concerned Block Land & Land Reforms Officer assessed the Form-B submitted and found that the lands stood vested and, therefore, there was no reason to interfere with the order of the concerned Block Land & Land Reforms Officer.

No doubt, the Act of 1953 postulates vesting of land with the State. It, however, provides for retention of amount of land specified under the Act of 1953 by the owners. For such purpose, Form-B is required to be submitted. On submission of Form-B, a concerned

Block Land & Land Reforms Officer will assess the area owned by the person submitting the Form-B, whether, the area owned is in excess of the ceiling prescribed in respect of the land specified and allow retention of such portion which is below the ceiling limit prescribed.

In the facts of the present case, apparently, the petitioner claims ownership in respect of 5.90 acres of land and additional plot comprising of 0.35 acres. The records demonstrate that, the concerned Block Land & Land Reforms Officer initially opened the khanda khatian in respect of the plot concerned. Thereafter, by the order dated June 14, 2018, the concerned Block Land & Land Reforms Officer thought it prudent that the plot concerned stood vested with the State. 5.90 acres and 0.35 acres of land taken together is not above the ceiling limit prescribed under the Act of 1953.

There is no material-on-record to establish the claim of the concerned Block Land & Land Reforms Officer that the plot concerned stood vested with the State.

There is no reason ascribed as to why the khanda khatian which was initially opened, was not proceeded with.

In such circumstances, we set aside the impugned order of the Tribunal dated January 16, 2023 as well as the order of the concerned Block Land & Land Reforms Officer dated June 14, 2018.

We direct the concerned Block Land & Land Reforms Officer to record the name of the petitioner as the owner in respect of plot no.9077 involving 87 decimals of Mouza-Nanduara.

WPLRT 35 of 2023 is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

