

05.06.2023

Item No.6

Ct. No.1

PG/KS

W.P.A.(P) 216 of 2023

Brindaban Mondal & Ors.

Vs.

State of West Bengal & Ors.

Mr. D.K. Samanta

Mr. Masud Karim.....for the petitioners

1. By this writ petition, styled as a public interest litigation, the petitioners seek for a writ of mandamus restraining the respondents from taking any prejudicial step to the right and interest of the petitioners for making distribution of the lands alleging vested with the State till the adjudication of the applications in M.A. 513 of 2023, 514 of 2023, 520 of 2023 and 521 of 2023 in T.A. No. 5150 of 2006 pending before the West Bengal Land Reforms and Tenancy Tribunal.
2. The first hurdle the petitioners have to cross is to satisfy this Court as to how this writ petition is maintainable as a public interest litigation.
3. The learned advocate appearing for the petitioners referred to rule 56 of the Rules relating to Application under Article 226 of the

Constitution occurring in Chapter 2 dealing with Public Interest Litigation. It is submitted that there is a *non obstante* clause in the said rule, which would permit a petitioner, in appropriate cases to move this Court in a matter concerning his private interest or for redressal of personal grievances and the Court in furtherance of public interest involved therein may treat the subject litigation in the interest of justice as public interest litigation.

4. In our considered view, the said provision can in no manner aid and assist the case of the petitioners as there is no semblance of any public interest involved in the present matter as the matter concerns purely the interest over an immovable property, which is claimed by the petitioners. Therefore, the writ petition is not maintainable as a public interest litigation.
5. Nevertheless, we find that the matter is already seised of by the tribunal and applications have been filed by the petitioners for restoring the transferred application in T.A. 5150 of 2006, which was dismissed for default.
6. It is submitted by the learned advocate appearing for the petitioners that M.A. 513 of 2023 has been filed to condone the delay in filing the application under section 5 of the Limitation Act,

M.A. 514 of 2023 for restoration of T.A. 5150 of 2006, M.A. 520 of 2023 for substitution of the legal heirs in the place of the deceased applicant and M.A. 521 of 2023 for an order of interim injunction.

7. Since these applications are pending before the tribunal, we request the learned tribunal to consider these applications and dispose of the same after hearing the parties on merits and in accordance with law.
8. With the above observations, the writ petition is dismissed as non-maintainable.
9. No order as to costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities..

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)