

DL-70

21.06.2023
Court No.5
(AD)

WPLRT 70 of 2023

**Sabban Khan
Vs.
The State of West Bengal & Ors.**

Mr. Mrinal Kanti Ghosh

... for the petitioner.

Mr. Sagar Bandyopadhyay

Ms. Soma Kar Ghosh

Mr. Arabinda Palhal

... for the respondent no.12.

Mr. Lalit Mohan Mahata

Mr. Supratim Dhar

Mr. Ziaul Haque

... for the State-respondents.

The writ petition is directed against an order dated February 22, 2023 passed in O.A. No.1665 of 2018 by the West Bengal Land Reforms and Tenancy Tribunal.

By the impugned order, learned Tribunal found that, there was a registered deed of 1984 by which, the private parties were claiming right, title and interest in respect of the immovable property concerned to an extent which was not being accepted by the writ petitioner before us.

In such context, learned Tribunal found that, the authorities were correct in not allowing the application for mutation in view of title dispute.

State and one of the private respondents are represented.

Learned Advocate appearing for the writ petitioner

submits that, the quantum of the immovable property that the writ petitioner purchased is not in dispute. One of the heirs of the original owners purported to execute a title deed in respect of a portion of the immovable property. Such heir was not entitled to the portion of the immovable property in respect of which such heir executed the title deed. He submits that, right of mutation does not depend upon the claim for title. He relies upon *(2010) 4 CalHCN 231 (Chanda @ Sandhya Rani Chakraborty vs. Chabi Palui)* in support of his contention.

Admitted facts are that, writ petitioner claims about 78 decimals of ownership in respect of a plot. Apparently, one of the heirs of the original owner, from whom the writ petitioner purchased, transferred his share in respect of the immovable property to a third-party. According to the writ petitioner, such heir was not entitled to transfer the quantum that was stated in the registered deed of conveyance of 1984.

The deed of 1984 still subsists. Despite knowledge of such deed, the writ petitioner is yet to assail the same before a regular Civil Court. There is, however, a suit for partition pending where the 1984 deed is not under challenge.

Revenue authorities are not vested with the jurisdiction to decide title to an immovable property.

In such circumstances, the revenue authorities up to the Tribunal stage found it prudent to leave to the private

parties to avail of their remedies with regard to the title to the immovable property before a Civil Court.

As noted above, the writ petitioner is yet to approach a Civil Court.

In *Chanda @ Sandhya Rani Chakraborty (supra)*, the Coordinate Bench was concerned with a case where the Writ Court directed mutation. A suit for eviction was filed in which an order of *status quo* was passed. The order of *status quo* passed by the Civil Court was noted by the High Court on appeal and directed that, if mutation was granted then the same will abide by the Civil Court proceedings.

The facts of the present case are completely different. No civil suit is pending challenging the registered deed of conveyance of 1984. Title disputes exists.

In such circumstances, we find no merit in the present writ petition.

WPLRT 70 of 2023 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

