

08.09.2023
Item No.7
Ct. No.5
CHC

W.P.L.R.T.96 of 2023

**Md. Habib and ors.
Vs.
The State of West Bengal & ors.**

Mr. Mrinal Kanti Ghosh
...for the writ petitioners

Mr. Soumitra Bandyopadhyay,
Mr. Priyabrata Batabyal
...for the State-respondents

Mr. Pinaki Dhole
...for the private
respondent nos.5 and 6

The writ petition is directed against an order dated March 27, 2003 passed by the West Bengal Land Reforms and Tenancy Tribunal in O.A.3634 of 2018.

By the impugned order, the Tribunal, held that there was no irregularity or infirmity in the order passed by the Prescribed Authority and Sub Divisional Authority, Islampur or the order passed by the District Land and Land Reforms Officer, Uttar Dinajpur with regard to a proceeding for annulment of patta.

Learned advocate appearing for the writ petitioners submits that, a proceeding for annulment of patta was initiated by the private respondents. He refers to the Rule 20B of the West Bengal Land

Reforms Rules, 1965 and submits that the initiation of such proceeding was bad. According to him ADMLA commenced the proceeding and that he was not entitled to do so. He submits that, the authority which passed the order purporting to be one of annulment was without jurisdiction to do so. Moreover, he refers to the contents of said order and submits that, improper reliance was placed on materials which were not required to be taken into consideration. Therefore, according to him, the order dated January 28, 2016 which was passed by the ADMLA was without jurisdiction and passed on incorrect materials.

Learned advocate appearing for the writ petitioners refers to the pleading made in the Original Application and submits that, relevant pleadings with regard to an inspection report, was not denied by the private respondents. He refers to the inspection report dated September 27, 2018 and submits that, such inspection report found the writ petitioners to be in possession of the land. Therefore, one of the grounds for annulment that, the writ petitioners were not in possession of the land in question, was incorrect. In such circumstances, he submits that, the order of annulment dated January 28, 2016 as affirmed by the concerned D.L. & L.R.O. on July 11, 2018 be quashed and the Sub Divisional Officer as prescribed

in Rule 20B of the Rules of 1965 be directed to consider the application for annulment afresh.

State and the private respondents are represented.

Learned advocate appearing for the State produces the records.

Learned advocate appearing for the private respondents submits that, an application for annulment was made by his clients which was considered by the Sub Divisional Officer. The Sub Divisional Officer delegated the enquiry to the concerned Block Land and Land Reforms Officer who submitted a report. The writ petitioners were not in possession of the plots concerned. The writ petitioners were not cultivating the plots. On these two grounds, the Sub Divisional Officer proceeded to annul the patta granted in favour of the private respondents. An appeal was preferred by the private respondents which was dismissed by an order dated July 11, 2018 passed by the concerned D.L. & L.R.O. He submits that, subsequent thereto, the writ petitioners obtained the so-called inspection report dated September 27, 2018. The subsequent report was not in the concerned proceeding for annulment of patta and therefore, cannot be taken into account for the purpose of assessing whether, the impugned

orders of the Sub Divisional Officer and the appellate authority being the D.L. & L.R.O. are bad in law.

Referring to the averments made in the Original Application, he submits, the averments therein was a claim for possession which was denied in the affidavit-in-opposition. Moreover, the factum of possession was established in the annulment proceeding.

A proceeding for annulment of patta granted in favour of the writ petitioner was registered by the Sub Divisional Officer on October 12, 2007. Such proceeding was initiated on application received by him with regard thereto.

Rule 20B of the Rules of 1965 is as follows:-

“20B. Making of enquiry under sub-section (2) of section 49.- (1) As soon as an application or information is received by the Revenue Officer that settlement of any land has been obtained by any person under sub-section (1) of section 49 by practising fraud or misrepresentation, or that a transfer of land has been made in contravention of the provisions of sub-section (1A) of section 49 he shall have a case started, call for the connected records and pass orders for local enquiry. The Revenue Officer may himself make such enquiry or cause it to be made by such officer not below the rank of an officer of the West

Bengal Subordinate Land Revenue Service, Grade I.

(2) The Revenue Officer shall, unless the case is summarily rejected, fix a date for consideration of the case and of the report of the local enquiry, if any, and after giving all persons interested, an opportunity of being heard and after considering such evidence as may be produced, make a summary record of the facts disclosed in the hearing and his decisions in the case.”

Rule 20B(1) allows the Revenue Officer, in this case, Sub Divisional Officer, to commence a case for annulment of patta on receipt of an application or information with regard thereto. In the facts of the present case, an application was made before the concerned Sub Divisional Officer and therefore, he initiated the annulment proceeding.

Rule 20B(1) of Rules 1965 empowers the Sub Divisional Officer himself to make an enquiry or cause to make such enquiry by an officer not below the rank of an officer of the West Bengal Subordinate Land Revenue Service, Grade I. In the facts of the present case, he required the concerned B.L. & L.R.O. to make an enquiry and submit a report. It is nobodies case that, the concerned B.L. & L.R.O. does not fit the description of an officer described in Rule 20B(1) of Rules 1965.

The writ petitioners and the private respondents were heard by the concerned Sub Divisional Officer and on consideration of the materials placed before him, he passed the order dated January 28, 2016 annulling the patta granted in favour of the writ petitioners. While doing so, he took into account two factors namely, the physical possession of the plots concerned and the report of the concerned B.L. & L.R.O. He returned a finding that, the writ petitioners were not in physical possession of the plots concerned and that, the private respondents were cultivating the same. He found that, the Sub Divisional Land and Land Reforms Officer also recommended annulment of the patta granted in favour of the writ petitioners.

The concerned Sub Divisional Officer in his order dated January 28, 2016 took into account the report of the Sub Divisional Land and Land Reforms Officer after he returned the finding that, a fit case for annulment was made out by the writ petitioners on the ground that writ petitioners were not in possession of the plots in respect of which patta was granted and that the private respondents were cultivating the same.

One of the contentions by the writ petitioners before us is that the order dated January 28, 2016

was not passed by the Sub Divisional Officer but by the ADMLA.

We perused the records of the case produced on behalf of the State in Court. Inspection of such records was also given to the learned advocate for the writ petitioners in Court.

The record establishes that order dated January 28, 2016 was issued by the Sub Divisional Officer, Islampur, Uttar Dinajpur and Revenue Officer under the provisions of the West Bengal Land Reforms Act, 1955. He is authorised to undertake the exercise as he did under Rule 20B of the Rules of 1965.

An appeal was carried against the order dated January 28, 2016 which was dismissed by the appellate authority on July 11, 2018. There is a report dated September 29, 2018 which is subsequent to the disposal of the appeal. In the report dated September 27, 2018, an official of the State purports to claim that writ petitioners were in possession of the land in question. The report on the face of it shows that the same relates a different proceeding altogether.

Therefore, no importance should be attached to such report in the proceeding at hand.

The writ petitioners were heard both by the Sub Divisional Officer and the appellate authority. It

is not the case of the writ petitioners that, there was no breach of principles of natural justice.

In the facts and circumstances of the present case, we do not find that, initiation of the proceedings for annulment was bad or that, inappropriate reports were considered or that relevant records were not considered in arriving at the decision as returned by the Sub Divisional Officer as affirmed on appeal by the appellate authority.

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

W.P.L.R.T. 96 of 2023 is dismissed without any order as to costs.

Records produced in Court is returned to the learned advocate for the State.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)