

23.08.2023
Item No.23
Ct. No.5
CHC
(dismissed)

W.P.L.R.T. 150 of 2022

Sahajamal Khan & ors.

Vs.

The State of West Bengal & ors.

Mr. Amar Nath Sen,
Mr. Biswajit Sarkar
...for the writ petitioners

Md. T. M. Siddiqui, Ld. A.G.P.
Mr. Supratim Dhar
...for the State

Mr. Shyama Prasad Purkait
...for the respondent nos.4 & 5

The writ petition is directed against an order dated March 14, 2022 passed in O.A.2943 of 2018 by the West Bengal Land Reforms and Tenancy Tribunal.

By the impugned order, the Tribunal dismissed the Original Application of the writ petitioners on the ground that, the writ petitioners was a minor at the time when the application under the provisions of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 was lodged and that, the

father of the petitioner sold an immovable property by a registered deed of conveyance on April 9, 1985.

The State and the private respondents are represented.

On behalf of both the State and the private respondents, attention of the Court was drawn to the definition of 'occupier' as appearing in the Act of 1975 under Section 2(f) thereof.

In the facts of the present case, writ petitioners applied before the Block Land and Land Reforms Officer under the provisions of the Act of 1975 to record the writ petitioners as an 'occupier' in respect of an immovable property. The concerned B.L. & L.R.O not taking any steps therein, the writ petitioners moved the Tribunal by way of O.A.2943 of 2018, which was disposed of by the impugned order dated March 14, 2022.

The Tribunal, in the impugned order, noticed that the father of the writ petitioners executed conveyance dated April 9, 1985 in favour of a person in respect of an immovable property. Consequently, the father of the writ petitioners cannot be said to be an 'occupier' within the meaning of the Act of 1975.

An 'occupier' under the Act of 1975 is defined in Section 2(f) thereof which is as follows"-

"2(f) "occupier" means an agricultural labourer or an artisan or a fisherman who is in possession of any land of another person, either as a lessee or as a licensee or as a trespasser and who holds no other land in any capacity whatsoever and includes the heirs of such person;"

"Occupier", as defined in the Act of 1975 is a person who *inter alia*, holds no other land in any capacity whatsoever.

In the facts of the present case, the father of the writ petitioners was owning a land as on June 26, 1975 which is the prescribed date under Section 4 of the 1975 Act to sell it on April 9, 1985.

In such circumstances, the petitioners are not entitled to invoke the provisions of the Act of 1975.

The application before the concerned B.L. & L.R.O. was *non est*. The Tribunal was correct in dismissing the Original Application as done by the impugned order.

In such circumstances, W.P.L.R.T. 150 of 2022 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)