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23.08.2023
Ct. No. 15
adeb

W.P.A. 6406 of 2016

IA No. CAN 1 of 2019 (Old No. CAN 1105/2019)

Sri Nayan Ranjan Dey & Ors.

Vs.

The State of West Bengal & Ors.

With

W.P.A. 25731 of 2013

IA No. CAN 1/2013 (Old No. CAN 9136/2013)

Amey Co-operative Housing Society Limited & Anr.

Vs.

The State of West Bengal & Ors.

Ms. Pompey Bose

Mr. Nirmalya Biswas

...for the petitioners (in WPA 25731 of 2013)

Mr. Srijan Nayak

Mr. Ankit Sureka

Mr. Biplob Das

...for the respondent nos. 2 and 3

Mr. M.K. Roy

Ms. Pompey Bose

Mr. Nirmalya Biswas

...for the respondent nos. 4 and 5
(in WPA 6406 of 2016)

Pursuant to the order dated 9th August, 2023 a report dated 22nd August, 2023 has been submitted by the Assistant Registrar-VIII for placing the records of the writ petition being WPA 25731 of 2013 before this Court.

The said report is perused.

Both the writ petitions being WPA 6406 of 2016 and WPA 25731 of 2013 are taken up for consideration in presence of the learned advocates representing the parties. However petitioners in WPA 6406 of 2016 are not represented.

Petitioners have prayed for implementation of the order dated 13th September, 2013 passed by the Joint Registrar of Co-operative Societies, KMAH Cell whereas in the writ petition being WPA 25731 of 2013 the petitioners who are respondent nos. 4 and 5 in the writ petition being WPA 6406 of 2016 have challenged the jurisdiction of the Joint Registrar of Co-operative Societies in considering the issue as referred to before the Joint Registrar by the parties to the writ petition being WPA 6406 of 2016. It has also been submitted on behalf of the petitioners in WPA 25731 of 2013 that during pendency of this writ petition the order dated 13th September, 2013 has been passed by the Joint Registrar of Co-operative Societies; issue of jurisdiction as raised by the petitioners in WPA 25731 of 2013 still remains alive since question of jurisdiction is in issue.

Having considered the submissions made on behalf of the petitioners in WPA 25731 of 2013 as well as the respondent authorities including the Co-operative Society it appears that the issue raised by the petitioners in WPA 25731 of 2013 needs to be decided by the State Government under Section 148 (1) of the West Bengal Co-operative Societies Act, 2006.

Having considered the submissions made on behalf of the respondents it appears that there is substance in their contentions that there is availability of alternative efficacious speedy remedy in view of the provision as

contained under Section 148 of the said Act of 2006. On perusal of Section 148 it does not appear that there is any bar so far the State Government is concerned in considering the issue of jurisdiction of Joint Registrar of Co-operative Societies in passing order dated 13th September, 2013 as questioned by the petitioners in WPA 25731 of 2013.

Accordingly, State Government is directed to take decision under Section 148 (1) of the West Bengal Co-operative Societies Act, 2006 within a period of 8 (eight) weeks from the date of communication of this order. Along with the communication of this order which has been passed by this Court today petitioners in WPA 25731 of 2013 are directed to forward a comprehensive representation to the State Government for taking decision on the issue raised by the petitioners in WPA 25731 of 2013 relating to jurisdiction of the Joint Registrar of Co-operative Societies in deciding the issue.

However, it is made clear before taking such decision opportunity of hearing shall be afforded to the petitioners in WPA 25731 of 2013 as well as petitioners in WPA 6406 of 2016 as well as the Co-operative Society.

After taking decision by the State Government under Section 148 (1) if it is found that the order passed by the Joint Registrar of Co-operative Societies dated 13th September, 2013 is tenable then it will be open to the concerned authority to take steps in terms of Section 142

of the West Bengal Co-operative Societies Act, 2006 for implementation of the same within a reasonable time.

With the aforesaid directions both the writ petitions stand disposed of.

Connected applications, if pending, also stand disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)