

DL-33

09.08.2023
Court No.5
(AD)

WPLRT 197 of 2009

Shri Shyamal Kumar Chanda
Vs.
The Learned Thika Controller, Kolkata Thika Tenancy & Ors.

Mr. Shyamal Kumar Chanda
... petitioner in-person

Mr. Chandi Charan De, Ld. Addl. Government Pleader
Mr. Supratim Dhar
... for the State-respondents.

Mr. Alok Kumar Ghosh
Mr. D. Mukherjee
... for the KMC.

Ms. Shila Sarkar
Mr. Arnab Ray
... for the respondent no.4.

The writ petition is directed against an order dated February 14, 2008 passed by the West Bengal Land Reforms and Tenancy Tribunal.

By the impugned order, the challenge to the order of the Controller, Thika Tenancy dated January 25, 2006 was negated.

Petitioner appears in person.

Petitioner claims that, the Tribunal proceeded against a wrong premises. The petitioner claims rights as a tenant through his mother. The Controller proceeded against a wrong property. The Thika Controller wrongly appreciated the facts.

State is represented.

Since the petitioner is appearing in person, we gave our anxious considerations to the records produced. We

perused the order of the Thika Controller dated January 25, 2006 which was assailed before the Tribunal as also the order impugned.

The Thika Controller took note of the proceedings. The Thika Controller also took note of the affidavit affirmed on November 24, 1997 by the petitioner and his sister.

In the affidavit affirmed on November 24, 1997, the petitioner took a stand that, a tenancy was created in favour of his brother Gurudas Chanda by the landlord.

Thika Controller noted that, the petitioner was seeking to take a stand contrary to which he took in the affidavit dated November 24, 1997.

Independent of the affidavit, the Controller found that, land in question fulfilled the criteria of a thika tenancy. Controller held that, the brother of the petitioners was a thika tenant on 2 cottah 12 chittak of land in premises No.63/1D, Dr. Suresh Ch. Banerjee Road, Kolkata-700010 since January 18, 1982. Controller also held that, premises No.63 did not come out of premises No.61, rather 63/1D was created out of mother premises 63. Consequently, the Controller proceeded to pass the order dated January 25, 2006.

In the Tribunal, the petitioner was represented by an Advocate. Same contentions as raised before the Controller and before us were raised there. The contention of premises no.63 coming out of 61 was considered at length. The Tribunal after discussing the materials produced on

record held that, adjudged thika tenancy premises number was 63/1D, Dr. Suresh Ch. Banerjee Road and not T-63/1D. 63/1D did not emerge out of 61. The name of Gurudas Chanda, brother of the petitioner was inserted in the 1st quarter 1/87-88 in the Kolkata Municipal Corporation records. Even if only insertion was kept out, then also on the basis of other documents produced it can be held that, Gurudas Chanda was the thika tenant. The matter was enquired into and discussed at length as noted above. The Tribunal after discussing the facts of the case did not find any irregularity in the order of the Thika Controller.

Nothing is placed before us to arrive at a finding contrary to those returned by the Thika Controller in its order dated January 25, 2006 and as affirmed by the Tribunal through the impugned order.

There being no merit in the present writ petition, the same is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

