

AD-04
Ct No.09
04.01.2023
TN

WPA No. 29145 of 2022

Gour Chandra Tudu
Vs.
The State of West Bengal and others

Mr. Tarapada Das,
Ms. Soma Chakraborty
.... for the petitioner

Mr. Amal Kr. Sen,
Mr. Bipin Ghosh,
Mr. Swapan Pal
.... for the State

Learned counsel for the petitioner contends that although the property-in-question does not fall within the ambit of the Public Land (Eviction of Unauthorised Occupants) Act, 1962 (hereinafter referred to as “the 1962 Act”), a proceeding has been initiated against the petitioner under the said statute which is now pending.

It is submitted that it will be evident from the materials on record in the said proceeding that such proceeding is not maintainable against the petitioner at all.

As such, learned counsel prays for an order directing the records to be called for.

However, such contention is controverted on behalf of the State. Learned counsel for the State

indicates that the matter has been fixed before the authority concerned and it should reach its logical conclusion before the said authority.

Upon hearing learned counsel, it is evident that all the points taken by the petitioner in the present writ petition with regard to maintainability of the proceeding before the authority under the 1962 Act are available to be taken by the petitioner before the said authority itself. Since adjudication on facts as well as law is required to be undertaken, this court does not, sitting in writ jurisdiction, intend to usurp the jurisdiction of the authority under the 1962 Act. Whichever way the decision goes, deciding the present writ petition on merits shall tantamount to prejudging the issues involved in the proceeding under the 1962 Act. As such, there is no scope of interference in the present writ petition at this stage.

Accordingly, WPA No. 29145 of 2022 is disposed of with liberty to the petitioner to urge all points taken in the writ petition before the competent authority under the 1962 Act in the pending proceeding.

It is made clear that the merits of the matter have not been gone into by this court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)