

20 06.09.2023
rkd Ct.15

W.P.A. 31217 of 2014

Roopkatha Bhattacharya

-vs-

The State of West Bengal & Ors.

Mr. Soumya Majumder,
Mr. G. F. Hossain,
Mr. Priyank Mondal,
Ms. Varsha Roy,
Ms. Mayuri Sengupta,

....for the petitioner.

Mr. Srijan Nayak,
Mr. Partha Sarathi Pal

....for the respondent no.1.

Mr. P. K. Roy,
Mr. Ankit Sureka,
Mr. Biplab Das,
Mr. Asis Dutta

....for the respondent no.3.

Mr. Krishnendu Banerjee,
Mr. Prithu Ghosh

....for the respondent nos.4 & 5.

The writ petition is instituted, *inter alia*, challenging two letters dated 9th April, 2010 and 7th August, 2010 issued by New Garia Development Cooperative Housing Society Limited relating to appreciation of right of the petitioner being the daughter of one Padma Bhattacharya (since deceased) who is alleged to have entered into an agreement with the aforesaid society upon payment of a sum.

It has been contended on behalf of the petitioner that after death of her mother the right which was accrued in favour of the petitioner in

view of entering into an agreement with the aforesaid cooperative society was not taken into consideration and petitioner was not permitted to become the member of the society on allotment of the land in question.

The learned advocate representing New Garia Development Cooperative Housing Society Limited has disputed the case made in the writ petition and it has been submitted that the petitioner is entitled to get back the value of her mother's share and interest in the society in case petitioner is a nominee of her late mother or produces the Probate/ letter of administration/ succession certificate in support of her claim.

It appears from a communication dated 24th July, 2012 which is at page 113 of the writ petition that Joint Registrar of Cooperative Society (Housing), West Bengal intimated the Secretary of the aforesaid cooperative society that in view of absence of representation on behalf of the cooperative society on 14th June, 2012 the issue could not be decided by conducting hearing and remanded the matter to the said cooperative society to dispose of the issue which was raised by the petitioner.

This Court fails to understand that after

taking steps by the Joint Registrar of Cooperative Society (Housing), West Bengal being respondent no.3 and fixing date of hearing upon serving notices to the petitioner and the aforesaid cooperative society why the issue was not decided by the respondent no.3 in view of absence of representation on behalf of the said cooperative society. The matter could have been fixed on a subsequent day in order to ensure representation on behalf of the cooperative society. The said cooperative society should not be allowed to get the benefit of its absence before the respondent no.3 and to decide the issue wherein allegation has been made against the said cooperative society itself.

In view of aforesaid scenario the decision taken by the respondent no.3 as contained in letter dated 24th July, 2012 whereby the issue was remitted to the aforesaid cooperative society is set aside thereby the Joint Registrar of Cooperative Society (Housing), West Bengal being respondent no.3 is directed to take decision on the dispute raised by the petitioner within a period of twelve weeks from the date of communication of this order after granting opportunity of hearing to the petitioner and the aforesaid cooperative society. At least seven day's notice shall be given to the

parties.

However, it is made clear that if the aforesaid cooperative society in spite of receiving notice remains absent before the respondent no.3 it will be open to the said respondent no.3 to take decision in the absence of the said cooperative society.

The decision to be taken by the respondent no.3 shall be communication to the parties within one week thereafter.

However, it is made clear that all points are kept open and parties are at leave to take points which are available to them before the respondent no.3.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)