

DL-49
30.11.2023
Court No.1
(AD)

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

WPLRT 2 of 2019

Smt. Dipika Dasgupta & Anr
Vs.
The State of West Bengal & Ors.

Mr. Sandip Mandal
Mr. Abhilash Mittal
.. for the petitioners.

The writ petition is directed against an order dated March 19, 2019 passed by the West Bengal Land Reforms and Tenancy Tribunal in O.A. 2647 of 2007 (LRTT).

By the impugned order, the learned Tribunal, did not find any error in the order of the appellate authority and, therefore, dismissed the original application.

Learned Advocate appearing for the writ petitioners submits that, a civil suit being Title Suit No. 120 of 2003 was filed by the writ petitioners against the private respondent relating to the plots in question seeking declaration and injunction. In such suit, an interim order of injunction was passed. The private respondent took the point of bargadar in the civil suit. Applications under Section 11 as well as under Order 7 Rule 11 of the Code of Civil Procedure, 1908 were rejected. The private respondent could not make any headway with regard to the orders passed under Section 11 or under Order 7 Rule 11 of the Code of Civil

Procedure, 1908. Thereafter, the private respondent approached the concerned Block Land & Land Reforms Officer (BL & LRO) for the purpose of recording the barga in respect of the plots in question. The concerned BL & LRO acceded to such request of the private respondent. Aggrieved thereby, the writ petitioners approached the appellate authority who concurred with the view of the BL & LRO. At no stage of those proceedings, did any of those authorities look into consideration the civil suit or the orders passed therein. He submits that, the orders of the Civil Court are binding and *res judicata* so far as the petitioners and the private respondent are concerned and ought to be taken into consideration by any other adjudicating authority who is dealing with on the same issues between the private parties.

None appears for the respondents despite service.

Supplementary affidavit filed in Court be taken on record.

We find substance in the contention of the writ petitioners that, the concerned BL & LRO and the appellate authority ought to take into consideration the civil suit and the orders passed therein between the private parties.

We find that the BL & LRO and the appellate authority did not do so. The Tribunal overlooked such fact and did not allude to the same.

In such circumstances, we set aside the impugned order of the Tribunal.

We also set aside the orders of the BL & LRO and the appellate authority impugned in the original application before the Tribunal.

We remand the matter to the concerned BL & LRO for fresh adjudication after affording reasonable opportunity of hearing to the private parties.

WPLRT 2 of 2019 is disposed of accordingly without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)