

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

10.01.2023

(SL 05)

(AK)

WPA 2598 of 2022
IA No: CAN 1 of 2022

Terai Tea Company Limited
Vs.
The State of West Bengal & Ors.

Mr. Joyjit Choudhury
Mr. Sitesh Kumar Gupta
Mr. Abhishek Singh

... for the petitioner.

Mr. Hirak Barman
Mr. Bikramaditya Ghosh

...for the State.

Mr. Pappu Adhikary
Mr. Debajit Kundu

...for the respondent no.9.

CAN 1 of 2022 which was for impleadment of the Labour Commissioner and the learned District Magistrate to the writ petition is disposed of since they have already been made parties in the present proceeding.

Upon hearing learned counsel appearing for the petitioner, the State and the private respondent no. 9 being one Grin Tea Trading Private Limited, this court is of the view that certain facts are admitted from the material before the Court. The leasehold right of the concerned Tea Estate being Dharanipur Tea Estate in

Jalpaiguri, was transferred in favour of the petitioner and confirmed by an order dated 2nd August, 1991. This order was set aside by the Supreme Court and by an order dated 9th September, 1991, the Supreme Court directed two suits including one filed by the petitioner for specific performance of the agreement for sale to be tried together. The agreement for sale was later set aside. By a later order of 22nd October, 2019, the Supreme Court was further pleased to set aside a Division Bench order for impounding certain documents including the agreement for sale. The issue was relegated to the suit Court. The petitioner, as the review applicant of the order setting aside the sale agreement, was given some relief by the Supreme Court by the order dated 1st October, 1991.

The grievance of the petitioner arises out of a resolution dated 28th July, 2022 of the Labour Commissioner with regard to the management of Dharanipur Tea Estate by the private respondent-Grin Tea. The resolution records that the Trade union of Dharanipur Tea Estate approached the Government of West Bengal and prayed for reopening of the Tea Estate. The resolution proceeds to record that the Tea Estate will reopen on 1st August, 2022 and resume its operations under the management of Grin Tea. The

management was also to start operations in the factory upon the transfer of the lease in favour of Grin Tea.

The point with regard to maintainability of the writ petition as raised on behalf of the Grin Tea, is not acceptable since no allegations have been made in the writ petition against the Collector. Section 6(b) of The West Bengal Land Reforms and Tenancy Tribunal Act, 1997 contemplates that the tribunal as defined in section 1(u) of the Act, can exercise jurisdiction in relation to an application complaining of inaction or culpable negligence of an authority under a specified Act. Section 2(r) includes The West Bengal Land Reforms Act, 1955 under which the Collector assumes importance under section 52(2).

The petitioner's suit is pending since 1990 for specific performance of the agreement for sale. Even if it is accepted that the petitioner cannot claim a present right in respect of the tea garden, any temporary arrangement for reopening the tea garden cannot create an interest in favour of the private respondent which would make the suit infructuous. The only concern is of the workers of the tea garden being protected in respect of their dues and salaries and the tea garden to be made operational as a running concern.

The impugned resolution of the Labour Commissioner ignores the fact of the pending proceedings of the petitioner and creates an arrangement which may well render the petitioner's suit infructuous.

Considering all the points raised on behalf of the contesting parties, this Court is, accordingly, of the view that the apprehensions expressed on behalf of the petitioner as well as by Grin Tea will best be settled if both the parties are directed to approach the learned District Magistrate, Jalpaiguri, for a resolution of the dispute. The primary point will be of running of the tea garden and protection of the rights and dues of the workers of the said tea garden. The parties will satisfy their claims of running the administration and management of the tea garden to the learned District Magistrate by way of corroborative material.

The learned District Magistrate is requested to take a considered view of the rival claims and come to a decision within a period of ten weeks from the date on which the petitioner and Grin Tea approaches the Office of the learned District Magistrate. Since Grin Tea has been running the garden from 1st August, 2022, it shall continue to do so until a decision is reached by the learned District magistrate. It is made clear that the arrangement with Grin Tea shall not

create any equity in favour of Grin Tea pending the final decision which is to be taken by the learned District Magistrate as directed.

WPA 2598 of 2022 is disposed of.

Needless to say, the parties before the Court shall be at liberty of filing fresh proceedings pursuant to the decision of the learned District Magistrate. It is made clear that this order shall have no bearing on the pending proceedings in relation to the tea garden.

(Moushumi Bhattacharya, J.)