

18.01.2024
Item No.25
RP/AN
Ct. No.1

WPA(P) 3 of 2024

**Radha Krishna Builders
Vs.
State of West Bengal & Ors.**

Mr. Haradhan Banerjee
Mr. Amitava Pain
Mr. Nilanjan Das
Mr. P.P. Mukhopadhyay
Mr. Santimoy Bhattacharyya
Mr. Sumon Bhattacharya
Ms. Piyali Das Gupta

.....for the Petitioner

Mr. S. Jahan
Mr. A. B. Mahata

.....for private respondent no.5 & 6

1. By way of filing this public interest litigation the petitioner seeks for a direction to set aside a circular issued by the Government of West Bengal dated 14.8.2023 and also to pass consequential order setting aside the proceeding initiated by the authorities pursuant to a direction issued in WPA(P) 263 of 2021 dated 18th April, 2023.
2. The authority, namely, the Officer, Specially Empowered in the Office of the Town Survey Unit, Howrah has issued notices to the writ petitioner on 10.11.2023 under Section 57 of the W.B.L.R Act, 1955 read with Section 51A(4) SUOMOTO of the said act in Misc. Case No.36 of 2023. On going through the notices we find that the authority has pre-decided the matter in respect of Non-agricultural land within the meaning of the West Bengal Non-agricultural Tenancy Act. If the authority has already pre-decided the issue no useful purpose would be served if the petitioners are directed to

appear before the authority. Therefore, we find the notices to be defective and not tenable. Accordingly, the writ petition is disposed of by setting aside the notices dated 10.11.2023 bearing memo nos.1000/TSU/2023 and 1003/TSU/2023 with a direction to the concerned authority to issue a fresh notice giving an opportunity to the petitioners to submit his objection and after affording an opportunity of personal hearing to the petitioner pass a reasoned order on merit and in accordance with law.

3. If similar notices have been issued to other persons also those notices shall be recalled and proper show cause notice is to be issued to all the persons concerned. The above direction be complied with in all those cases.
4. Registry of this Court is directed to communicate a copy of this order to all the District Magistrates of the State of West Bengal who shall instruct the appropriate authority to act in terms of this order.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)