

11
14.03.2024
Ct. No. 11
Jayanta

WPLRT 7 of 2024

Kesoram Industries Limited & anr.
vs
State of West Bengal & Ors.

Mr. Souma Majumder
Mr. Rupak Ghosh
Mr. Debjyoti Saha

..... For the Petitioners.

Mr. Kishor Dutta, Ld. Advocate General
Mr. T. M. Siddiqui
Mr. Supratim Dhar
Ms. Mgha Sarkar

..... For the State/Respondents.

The present writ petition has been instituted to impugn the order dated 16th January, 2024 passed by the learned Tribunal in O. A. No. 366 of 2023. The operative part of the order under challenge in the writ petition is quoted as below:

“Heard. Considered. Liberty is granted to the state respondents to submit affidavit-in-opposition before 6 weeks prior to next date after supply of copy to the other sides and in such event affidavit in reply is to be submitted 4 weeks thereafter and exchange of affidavits must be completed by the next weeks.

Ld. Counsel appearing for the applicant submits that an interim order of injunction may be granted otherwise the applicant will suffer irreparable loss.

Ld. Government Representative prays for liberty to submit a detail documents received from different four districts that

the order of the department dated 04.01.2008 has already been complied with in the meantime.

Accordingly, the prayer for interim order of injunction is futile and should not be granted at this stage.

Liberty granted to submit the documents on behalf of the state respondents through Ld. Government Representative which are also kept with the record.

The matter will appear in the list on 16.08.2024 under the hearing 'Hearing'."

Mr. Majumder, learned advocate representing the petitioners submits that the petitioner no.1 being a company within the meaning of the Companies Act, 2013 is in occupation of diverse plots of land in four districts of the State of West Bengal to cater to the multifarious business and to run various factories located at Garden Reach in the districts of South 24 Parganas, Barasat and Khardah in the district of North 24 Parganas, Kulti in the district of Paschim Burdwan, Raghunathpur, Boro Khejuria and Khamarpara in the district of Hooghly.

He contends that for smooth functioning of the said factories, the petitioner no. 1 was allowed to hold the lands in excess of ceiling area prescribed under Section 14M of the West Bengal Land Reforms Act, 1955 (in short, the Act of 1955). By passing an order dated 4th January, 2008, an area comprising of 23.01 acres of lands held by the petitioner no.1 in the district of South 24 Parganas was resumed by the State.

Mr. Majumder argues that suddenly, on 24th January, 2022, the petitioner no.1 received one message through *WhatsApp* from one senior official of Land and Land Reforms Department, Government of West Bengal (hereinafter referred to as the department) whereby the authorized person of the petitioner no. 1 was asked to appear before the competent authority on 28th January, 2024 for determination of ceiling area. By a letter dated 27th January, 2024, the petitioner no.1 requested the Senior Special Secretary of the department to provide some relevant documents but to no avail. Eventually, by an order dated 23rd November, 2023, which was issued basing upon the order dated 4th January, 2008, the State has again resumed a large chunk of the lands from almost all factory premises of the petitioner no. 1. He asserts that in total defiance of the principles of natural justice and in derogation of the legislative fiat incorporated in Section 14Z (2) of the Act of 1955 without affording any opportunity of hearing to the petitioner no.1, the State has resumed a good numbers of plots of lands taking an unilateral decision. He contends that the record-of-rights have been revised accordingly. He next contends that the State is going to create third party interest in those lands. It is urged by him that unless an immediate protection is given to the petitioners, the petitioners shall suffer irreparable loss.

Mr. Dutta, Ld. Advocate General appearing for the State places a written instruction annexing some notices therewith.

The written instruction along with its annexures as produced, is taken on record.

Mr. Dutta submits that since 2009 to 2023 by issuing numerous notices, the petitioner no.1 was asked to attend the office of the competent authority and sufficient opportunity was given to the petitioner no. 1 to disclose its stand but raising one after another plea, petitioner no.1 has avoided the hearing and as such, finding no other alternative, the State in exercise of its power conferred by the provisions of Section 14Z(2) of the Act of 1955 has resumed some plots of land which the petitioner no.1 was holding in excess of the ceiling limit and which were not required to run the factories. He contends that the petitioner no.1 has failed to make out any case towards its entitlement of ad-interim order of injunction, as prayed for.

Heard the learned advocates appearing for the respective parties. Considered the documents available on record and perused the pleadings placed before us.

Needless to state, Section 14M of the Act of 1955 has prescribed the ceiling area which one raiyat can hold. Section 14Y of the Act has enabled a company to hold the land in excess of the ceiling area with the previous permission, in writing, of the State Government.

In terms of the provisions of Section 14Z of the Act, a company may be allowed to retain (in excess of the prescribed ceiling area) only so much of such land as, in the opinion of the State Government, is required for the purpose of factory. The State Government may revise its order, whereby it had permitted the

company to hold the lands in excess of prescribed ceiling area, after reviewing the circumstances of a case and after giving the raiyat an opportunity of being heard. Therefore, an analogy can be drawn that before revising its order, the State Government is required to afford an opportunity of hearing to the raiyat concerned. Mr. Majumder asserts that only one message through *WhatsApp* was given but from the document, as produced on behalf of the state, it is quite vivid and luminescent that for a period of 14 years spreading 2009 to 2023, numerous notices were issued to the petitioner no.1 calling upon its authorized person to attend the hearing but the petitioner no. 1 did not avail of that opportunity. Considering such conduct of the petitioner no.1, we do not feel urge to exercise our discretion to grant equitable relief in favour of the petitioner no.1.

Seeing the writing on the wall, Mr. Majumder made a last-ditch effort to convince us contending that though in view of provision of Urban Land (Ceiling and Regulation) Act, 1976, the provisions of Section 14Z of the Act of 1955 would not be applicable to the lands appurtenant to the factory located at Garden Reach which fall within 'urban agglomeration' but taking recourse to provisions of Section 14Z of the Act, the State has illegally passed order of resumption. Mr. Dutta riposted such claim of Mr. Majumder.

From the order impugned, it is explicit that the learned Tribunal has refused to pass ad-interim order, as prayed for but the learned Tribunal has fixed a date for consideration of prayer for injunction of the petitioner no.1 after exchange of affidavits by

the parties. In such conspectus, though the view taken by the Court while dealing with an application for injunction is always a tentative view yet we restrain our temptation to make any comment touching upon the merits of the case.

In such conspectus, we do not find any error, least to say any patent error or jurisdictional error in the order impugned warranting interference with the same.

Accordingly, the writ petition being WPLRT 7 of 2024 is dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)