AD-05
Ct No.09
07.02.2024
TN

WPA No. 2800 of 2022

Sri Rajiv Hansda and others
Vs.
The State of West Bengal and others

Mr. Debasish Ghosh,
Mr. Subhajit Roy
.... for the petitioners

Mr. Wasim Ahmed,
Mr. Sk. Md. Masud
.... for the State

Mr. Akash Dutta,
Mr. Manish Biswas
.... for the respondent no.5

1. Affidavit-of-service filed today be kept on record.

2. The petitioner belongs to the Scheduled Tribes. He transferred a garage space which he in turn purchased, in favour of a third party who does not belong to the Scheduled Castes or Tribes.

3. When the deed was presented for registration, the Registering Authorities refused to register the same.

4. It is contended that under Section 71 of the Registration Act, specific reasons ought to have been given for such refusal which was not done by the Registrar. More importantly, it is argued that the Registrar was of the opinion that permission under Section 14C of the West Bengal

Land Reforms Act, 1955 (for short "the 1955 Act"), which is applicable to transfers by persons of Scheduled Tribes, is required before the registration is to be done.

5. Learned counsel argues that Section 14C does not apply in the present case, since the garage space does not fall within the purview of "land" as defined in Section 2(7) of the 1955 Act.

6. That apart, the Revenue Officer, when approached by the petitioner for permission under Section 14C, refused such permission on a point which is beyond the scope of Section 14C, that is, allegedly the land was classified as a '*doba*' and has not yet been permitted by the appropriate authorities to be converted.

7. Learned counsel for the State specifically argues that the property comes within the definition of 'land' as defined in the 1955 Act and, hence, the rigours of Section 14C are applicable.

8. It is also argued that the mere premise that a previous registration was done cannot validate the unlawful transfer sought to be effected by the petitioner.

9. Upon hearing learned counsel for the parties, a perusal of the impugned order of the Revenue Officer indicates that the Revenue Officer proceeded on the premise primarily that the property was classified in the land records as a *doba* whereas no conversion has been effected. However, as rightly argued by the petitioner, the said reason is *de hors* the scope of Section 14C and the exercise which can be done by a Revenue Officer under the said provision.

10. Thus, the refusal by the Revenue Officer on such ground cannot be sustained.

11. However, with regard to the other contention of the petitioner that the property does not come within the purview of Section 14C, the said contention cannot be sustained.

12. First, the petitioner himself submitted to the jurisdiction of the Revenue Officer by making an application as contemplated in Section 14C.

13. Also, the expression “land” as defined in Section 2(7) of the 1955 Act includes homestead.

14. “Homestead” as defined in the *pari materia* statute of the West Bengal Estate Acquisition Act, 1953, takes within its purview a dwelling house together with its several components.

15. The garage space in the present case cannot be segregated as a different property from the building of which it is a part, which is undoubtedly a dwelling house.

16. Thus, the rigours of Section 14C are fully applicable since the petitioner is admittedly a Scheduled Tribe person.

17. However, since the relevant considerations were only for the Revenue Officer to see whether Section 14C(1)(e) read with the two provisos thereunder are satisfied, the impugned order cannot be sustained, being devoid of such consideration.

18. Accordingly, WPA No. 2800 of 2022 is allowed on contest, thereby setting aside the impugned order of the Revenue Officer and directing the Revenue Officer to re-adjudicate the matter, upon giving an opportunity of hearing to all concerned, including the petitioner and the respondent-authorities, by strictly confining himself to the yardsticks as stipulated in Section 14C of the 1955 Act and its provisos.

19. It is expected that such exercise shall be concluded as expeditiously as possible, preferably within a month from date. Thereafter, the Revenue Officer shall pass a reasoned order and communicate the same to the petitioner.

20. There will be no order as to costs.

21. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)