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26.02.2024
Ct. No. 11
Jayanta

WPLRT 18 of 2024

Amulya Ratan Biswas & Ors.

vs

State of West Bengal & Ors.

Mr. Saktinath Mukherjee, Ld. Senior Advocate
Mr. Tapas Kumar Sil
Ms. T. Sil

..... For the petitioners.

Mr. T.M. Siddiqui, Ld. AGP
Mr. S. Dhar
Mr. Amit Lal Chatterjee

..... For the State.

Questioning the defensibility of the order dated 2nd February, 2024 passed by the learned Tribunal in O. A. 135 of 2024 (LRTT), the present writ petition was instituted.

By the order impugned, the learned tribunal arrived at a conclusion that the State Respondent should be given an opportunity to submit exception to the original application for rendering proper decision relating to grant of interim order, as prayed for by the applicants/petitioners (hereinafter referred to as the petitioners). Accordingly, in the said order, liberty was granted to the State Respondent to submit such exception and simultaneously, liberty was also granted to the petitioners to file their response to such exception within the time specified therein.

Mr. Mukherjee, learned Senior Advocate drawing our attention to the notice issued by the Block Land & Land Reforms officer, Balurghat, Dakshin Dinajpur, dated 2nd February, 2024, under Section 51A (4) of the West Bengal Land

Reforms Act, 1954 (in short. the Act of 1954) contends that such notice was issued with an intention to revise the finally published L.R. Record of Rights and the petitioners are some of the 'raiyats' who would be seriously affected by such revision, if made.

According to Mr. Mukherjee, Section 44 (2a) of the West Bengal State Acquisition Act, 1953 (in short, the Act of 1954) is in *pari materia* with the Section 51A(4) of the Act of 1955. Drawing inspiration from the proposition laid down in judgment of *Muktipada Ghosh and Ors. – vs. – The State of West Bengal & Ors, reported in AIR 1971 Cal 451*, Mr. Mukherjee contends that the authority concerned was required to set out the reasons and/or grounds which necessitated such revision in the notice itself. In his view, a notice without containing such reasons is void and consequently, such notice and the proceedings based on such notice are void and resultantly, the notice and all the actions proposed to be taken on the basis of such notice are also void. To bolster his such contention, he cites another decision rendered in the judgment delivered in case of *Jaswant Singh Saluja and Anr. – vs. – Chief Settlement Commissioner and Another, reported in (1972) 4 SCC 78*.

Mr. Siddiqui, learned Additional Government Pleader appearing for the State vehemently opposes such contention canvassed by Mr. Mukherjee. He submits that the issue of granting interim order is under consideration before the learned Tribunal and to take decision on this issue, the learned tribunal has afforded an opportunity the State Respondent to

file affidavit-in-opposition to the original application. As such, no interference of this Court is warranted in the case at hand.

Heard the learned advocates. Perused the materials on record.

Record reveals that in order to rectify the error crept in the L.R. record of rights finally published in respect of certain plots of land appertaining to Kamarpara Mouza, J.L. no. 265, Block- Balurghat, District- Dakshin Dinajpur, a proceeding being case no. 1849/Misc./2023 came to be initiated and in connection therewith a notice under Section 51A(4) read with Section 57 of the Act of 1955 was issued by the B.L.& L.R.O. concerned calling upon the raiyats of the plots of land referred therein to attend the hearing scheduled to be held on 18.01.2024 along with all the documents relating to their respective lands. Challenging the legality of such notice and praying for an order to have the notice as also the proceeding based thereon quashed, one original application being O.A. no. 135 of 2024 was preferred.

For clarity and convenience, it would be apt to advert to the provisions of Section 51A(4) of the Act of 1955 which is quoted as below :

S.51A(4):- An officer specially empowered by the State Government may, on information or on his own motion, revise an entry in the record finally published in accordance with the provisions of sub-section (2) after the persons interested are given an opportunity of being heard and after recording reasons therefor.

Needless to state that the enabling provisions of sub-Section 4 of 51A permit the officer specially empowered by the State Government to revise the L.R. record of rights finally published in the manner prescribed in sub-section 2 of the Section 51A(4) of the Act of 1995. Such revision can be made on the basis of an application made or on his own motion within the time prescribed therein. As per the legislative fiat, such officer before making any revision has to afford opportunity of hearing to the interested person or persons.

Stressing immense emphasis on the proposition laid down in the judgment of Muktipada Ghosh & Ors.(supra), Mr. Mukherjee asserts that the grounds for such revision must be set out in the notice itself failing which the notice and the proceeding initiated basing upon such notice cannot be sustained. He contends that unless a person is made to know the case which he is to meet, such person is not supposed to get any opportunity of being heard. In his view, a barren notice served upon a party only to appear would be useless formality.

On close scrutiny of the provisions of Section 51A of the Act of 1955, it is explicit that legislature did not prescribe any form of notice. Intention to issue notice is mainly to provide certain information to the interested person or persons. *Prima facie*, there is no legislative mandate that the notice shall contain detailed reasons to justify the act of issuance of notice. From non-disclosure of detail reasons and/or grounds justifying act of issuance of notice, nothing unfair can be inferred and/or

anticipated that the petitioners shall be deprived of getting any opportunity to meet the case.

Learned Tribunal has fixed a date to decide the issue as to whether the interim order as prayed for by the petitioners can be granted after considering the affidavits exchanged by the parties.

In such sequence of facts, we do not find any extreme emergent situation wherefrom it can be inferred that even before giving an opportunity to the State Respondent to use its affidavit-in-opposition, the interim order, as prayed for by the petitioner was required to be passed failing which the petitioners shall suffer irreversible injury. Considering all these aspects, we do not find any error, least to say, any patent error in the order impugned in the writ petition warranting interference of the same by this Court.

Suffice it to observe that a decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in decision making process. The judgment is a precedent for the issue of law that is raised and decided and not observations made in the facts of any particular case. The decisions cited by Mr. Mukherjee are distinguishable on facts.

Hence, considering these aspects, we are not inclined to interfere with the order passed by the learned Tribunal.

Consequently, the writ petition is dismissed. There shall, however, no order as to costs.

Needless to observe that the learned Tribunal shall proceed, without being influenced by any of the observations made in the order.

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

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