

09.01.2024

Ct. no.654

Sl. No.32

sn

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 4885 of 2023
(Specially Assigned)

Panchu Sardar & Ors.

Vs.

Land & Land Reforms and Refugee Relief
And Rehabilitation Department & Ors.

Ms. Ishita Basu

... for the petitioner

Mr. Chandi Charan De, Ld. AGP

Mr. Anirban Sarkar

... for the State

Mr. Satyajit Talukdar

..for the KMDA

Affidavit of service filed of behalf of the petitioner is taken on record.

This writ petition has been filed under Article 226 of the Constitution of India for rectification of record of rights in respect of the land comprised within Dag no. 901 of Mouza Brij under South 24 Parganas.

The brief fact of the case is that one Sudhin Roychowdhury was recorded owner of the plot of land described as pond in the land records measuring more or less 03 decimal at Mouza Brij, Purba Para Kalabagan, R.S. Dag No. 901, R.S.Khatian no. 128, Police Station Patuli within the jurisdiction of the Ward No.10 of the Kolkata Municipal Corporation. The total area of the plot is 0.54 acre out of which 51 decimal of land has been acquired by the Kolkata Metropolitan Development

Authority and remaining 3 decimal has not been acquired. The petitioner no.3 along with one Anima Sardar purchased the plot of land measuring 3 decimal from the recorded owner Sudhin Roychowdhury. Since the entire 0.54 acre of land was recorded in the name of the land acquisition cell, the petitioners through her learned advocate made a representation for correction of the record of rights. However this said representation has not been disposed of. Hence, this writ petition.

Mr. Satyajit Talukdar, learned advocate for the KMDA at the very outset submits that the petitioners by the present writ petition have prayed for correction/rectification of the record of rights. Recording in the record of rights and correction and/or rectification thereof is done as per provisions laid down under the West Bengal Land Reforms Act, 1955. Since the West Bengal Land Reforms Act is “Specified Act” under Section 2(r) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 which excludes jurisdiction of this Court and confers jurisdiction upon the Tribunal to deal with the matters coming under “Specified Act”, hence, this Court has no jurisdiction to enter into the issues involved in the present writ petition. He submits that the writ petition should be dismissed.

In reply to such contentions, Ms. Ishita Basu, learned advocate for the petitioners submits for a direction for consideration of the representation made by

the petitioners before the authority concerned for rectification of the record of rights.

Mr. Anirban Sarkar, learned advocate for the State respondents also submits that the present writ petition is not maintainable since the Tribunal has been conferred with the power to deal with any grievance relating to rectification/correction of the record of rights.

There is no quarrel that the aspect of recordings in the revenue records and correction and/or rectification are squarely covered by the procedure laid down in the West Bengal Land Reforms Act which is a “*specified Act*” under Section 2(r) of West Bengal Land Reforms and Tenancy Tribunal Act, 1997. At this stage, it would be profitable to reproduce Section 8 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 as hereunder:

“8. Exclusion of jurisdiction of courts.- *On and from the date from which jurisdiction, power and authority become exercisable under this Act by the Tribunal, the High Court, except where that Court exercises writ jurisdiction under Articles 226 and 227 of the Constitution by a Division Bench, or any civil court, except the Supreme Court, shall not entertain any proceeding or application or exercise any jurisdiction, power or authority in relation to adjudication or trial of disputes or application relating to land reforms or any matter connected therewith or incidental thereto or any other matter under any provision of a specified Act.”*

Upon bare reading of Section 8 along with Section 2(r) of the West Bengal Tenancy Tribunal Act, 1997 it manifests that the Tribunal has jurisdiction to entertain

any grievance relating to West Bengal Land Reforms Act which is a “*specified Act*”. Section 6(b) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 also confers power upon the Tribunal to exercise jurisdiction, power and authority relating to an application complaining inaction or culpable negligence of an authority under a “*specified Act*.”

Bearing in mind the express provision as reproduced hereinabove and the grievance of the petitioner being one under the West Bengal Land Reforms Act, which is “*specified Act*”, this Court has no manner of hesitation to hold that this writ petition is liable to be dismissed being not maintainable.

In the light of above discussions, the writ petition being **W.P.A. 4885 of 2023** stands dismissed.

All connected applications, if any, stand dismissed.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)