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04.03.2024
Ct. No. 11
Jayanta

WPLRT 34 of 2024

Mostafa Rahaman Mondal
vs
State of West Bengal & Ors.

Mr. Udaynarayan Betal
..... For the Petitioner.
Mr. Supratim Dhar
Mr. Amritlal Chatterjee
Mr. M. Sarkar
..... For the State.

Affidavit-of-service filed by the appellants be kept on record.

Tenability of the order dated 20th February, 2024 passed by the learned Tribunal in O. A. 3984/2023 has been called in question in this writ petition.

Mr. Betal, learned advocate representing the petitioner submits that the concerned BL & LRO has *suo moto* initiated a proceeding *vide*. Case No. Hat/2/23 for rectification of record of rights of the subject plot of land and in connection there with a notice under section 51 A (4) read with Section 57 of the West Bengal Land Reforms Act, 1955 (in short, Act of 1955) was issued to the petitioners.

Mr. Betal, learned advocate appearing for the petitioner vehemently contends that the predecessor-in-interest of petitioner, namely, Ajit Kumar Biswas was non-agricultural tenant in respect of the subject land and in view of the provision of Section 3 A of the Act 1955 read with Sections Section 5 and 5A of West Bengal State Acquisition Act, 1953, Mr. Das became

a direct tenant under the State of West Bengal. The petitioners purchased the lands from Mr. Biswas.

He argues that the B.L.& L.R.O has no jurisdiction to initiate such proceeding but the same was initiated at the behest of the official lying in the high echelon of the Land and Land Reforms Department of the State and even specific instruction has been given to the B.L.& L.R.O on the mode and manner in which the B.L.& L.R.O would proceed. Resultantly, the B.L.& L.R.O. has been proceeding in a pre-determined and pre-conceived mind and as such, the petitioners approached the learned Tribunal with a prayer for quashing of the proceeding. He contends that the petitioners have made out a good arguable case in their favour but the learned Tribunal has refused to grant the interim relief, as prayed for by the petitioners. Placing his reliance upon an order dated 24.11.2023 passed by the learned Tribunal in O.A. 3176 of 2023, Mr. Betal submits that in an identical matter, the learned Tribunal granted liberty to the B.L.& L.R.O. to proceed with the matter but not to record any final order without leave of the Tribunal.

Mr. Dhar, learned advocate appearing for the State vehemently opposes such contention canvassed by Mr. Betal. He contends that the land was recorded as Hat and as such, the land was vested to the State in terms of the provisions of Section 5(1)(a)(ii) of the West Bengal Estate Acquisition Act, 1953. He argues that there is an erroneous recording in the L.R. record of rights and hence, to rectify such error crept in the L.R. record of rights, the proceeding in question was initiated. Mr. Dhar asserts that the argument advanced by Mr. Betal that the

B.L.& L.R.O. has been proceeding in pre-conceived mind is misconceived and unfounded.

Heard the learned advocates. Perused the materials on record.

Record reveals that by an order dated 9th February, 2024, the learned Tribunal directed the B.L & L.R.O. to forward the status report in connection with the notice and the judgment on the point of stay was reserved observing '*CAV regarding only on point of stay*' and the matter was made returnable on 25th April, 2024. Subsequently, the matter was taken up for passing order on the point of quashing of the proceedings on 20th February, 2024 and the prayer of quashing of the entire proceedings made by the applicant before the Tribunal below was turned down on contest. The B.L & L.R.O. concerned was directed to forward a detailed status report regarding progress of the proceedings already initiated by him on the returnable date, i.e., on 10th April, 2024.

Record reveals that the BL & LRO has applied its judicial mind to the issues raised by the petitioners in the original application and a status report regarding progress of the proceeding pending before the B.L. & L.R.O. has been called for. The learned Tribunal fixed the matter for further consideration on 10th April, 2024. Taking stock of such chronological events, we are not inclined to make any comment touching upon the merits of the matter at this stage but since the learned Tribunal is in seisin of the matter and in similar matter, the learned Tribunal had granted interim relief for a limited period, we are inclined to direct the B.L & L.R.O. to

proceed with the matter in accordance with law but not to pass any final order till the next date of hearing.

Accordingly, the writ petition being WPLRT 34 of 2024 is disposed of.

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.)