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26.09.2024
Ct. No. 11
rrc

WPLRT 40 of 2024

[Snehabala Kar (Legal heirs of Narayan Chandra Kar since deceased) Vs. The State of West Bengal & Ors.]

Mr. Gouranga Kr. Das
Ms. Poulami Dutta
.... For the petitioner

Mr. Saptak Sanyal
..... For the State respondents

Ms. Sarmistha Ghosh Sarma
..... For the respondent nos. 5 & 6 (Via v/c)

The present writ petition has been instituted challenging the order dated 4th January, 2024 passed in the Original Application (in short, OA), being OA 3571 of 2023.

Mr. Das, learned advocate representing the petitioner, submits that a plot of land recorded in C.S.R-O-R as plot No. 1007, comprising an area of 165 acres, belonged to one Nemai Charan Pradhan, who, by executing a deed of gift, conveyed the plot of land to the predecessor-in-interest of the present petitioners, namely, Narayan Ch. Kar, since deceased.

During the RS operation, the said plot of land was split into two plots, namely, RS plot No. 1508 and RS plot No. 1509, comprising areas of 26 decimals and 139 decimals, respectively. Thereafter, by executing a deed, Mr. Kar sold 8 decimals of plot No. 1508 and 46 decimals of plot No. 1509.

After the publication of the final LR Record of Rights, it was found that similar numbers for those two plots were maintained in the LR Record of Rights, but in the names of private respondent nos. 4 and 5, 9(nine) dec. each were recorded in respect of plot No. 1508, whereas for plot No. 1509, 25(twenty-five) decimals, 46(forty-six) decimals, and 21(twenty-one) decimals were recorded in the names of private respondents nos. 4, 5, and one Ranjit Kar, respectively. Only 1(one) decimal of land from plot No. 1509 was recorded in the name of Mr. Kar, and no land was recorded in his name in respect of plot No. 1508.

Given the situation, the petitioner submitted a representation dated 27.09.2023 before the concerned BL&LRO, requesting rectification of the Record of Rights of both the plots. However, since despite the receipt of this representation, it was not attended to, the petitioner was compelled to approach the learned Tribunal with OA 3571 of 2023.

He submits that, meanwhile, Mr. Ranjit Kar filed a partition suit Title Suit No. 203 of 2023, seeking partition and separate possession of plot No. 1509. He also submits that, taking note of this fact, the learned Tribunal directed the BL&LRO to correct the Record of Rights for plot No. 1508 but refused to give any such direction regarding plot No. 1509.

He apprehends that the partition suit, along with any appeal that may be filed against the final judgment and decree passed in the partition suit, may remain pending for years. He submits that during this period, if the rectification of the L.R. R-O-R for plot no. 1509, as requested by the petitioners, is not carried out,

the petitioners would be highly prejudiced. In contrast, if the R-O-R is corrected based on the petitioners' representation during the pendency of the suit, there would be no prejudice to the private respondents.

Ms. Ghosh Sarma, learned advocate appearing for the private respondent nos. 5 and 6 in virtual mode, contends that in the partition suit, the plaintiff not only prayed for partition and separate possession but also sought a declaration of title. Therefore, according to her, it would not be proper to give any direction to alter the entry in the Record of Rights during the pendency of the partition suit.

Mr. Sanyal, learned advocate enters appearance on behalf of the State respondents.

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

Admittedly, there is a partition suit concerning plot no. 1509, and as claimed by the private respondents, the suit was instituted for partition, separate possession, and a decree of declaration of title as well. In the suit, Mr. Kar, now deceased, was made a party. Therefore, to avoid any complication, the petitioners must be substituted in place of Mr. Kar. It is expected that the title of the petitioners in respect of plot no. 1509 will also be determined in the suit along with other parties thereto. As such, unless the title of the parties in the suit is determined, it would be inequitable to direct the BL&LRO to alter the entries in the L.R. R-O-R for plot no. 1509.

Thus, we are of the view that the learned Tribunal has rightly issued a direction to the BL&LRO to consider the petitioner's claim for rectification of the Record of Rights for

plot no. 1508 and correctly refused to issue any direction to alter the entry in the Record of Rights for plot no. 1509 during the pendency of the partition suit.

We do not find any infirmity, substantial miscarriage of justice, or error, let alone any jurisdictional or patent error in the impugned order. As a result, the writ petition is dismissed.

There shall, however, be no order as to costs.

As the writ petition has been dismissed without calling for any affidavit from the respondents, the allegations made in the writ petition shall be deemed to have been denied.

All parties shall act on the service copies of this order duly downloaded from the official website of this Court.

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