

WPLRT 42 of 2024
with
WPLRT 43 of 2024
(Shrimati Suchitra Barman & Anr. Vs. The State
of West Bengal & Ors.)

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray
..... **For the petitioners**

Mr. T. M. Siddiqui, Ld. AGP
Mr. Supratim Dhar
Mr. Sudhadev Adak
.... **For the State**
(in WPLRT 42 of 2024)

Mr. Soumitra Bandopadhyay
Mr. Subhasis Bandopadhyay
.... **For the State**
(in WPLRT 43 of 2024)

Mr. Uday Shankar Bhattacharya
Mr. Ashim Kumar Ghosh
.... **For the respondent no. 4**

For having thematic unity of the issues involved in both writ petitions, upon consent of the parties, we take up both the petitions for analogous hearing.

The case has a chequered history.

The lands originally belonged to one Nilmony Mondal, since deceased. Upon his demise, the lands devolved upon his wife, Gouribala. The private respondents forcefully took possession of certain lands and started cultivating paddy, claiming ownership of those lands based on three deeds, allegedly executed in their favour by Nilmoni and Gouribala. Gouribala instituted a suit vide. T.S. no. 75 of 1986, which was decreed declaring the three deeds as null and void. The private respondents were permanently restrained from creating

any disturbance to Gouribala in her peaceful possession and enjoyment of the lands. The private respondents preferred an appeal vide. T.A. no. 101 of 2010 which is awaiting its final adjudication before the first appellate Court.

In 2019, the private respondents presented a petition before the B.L. & L.R.O concerned to have their names recorded in L.R. Record of Rights pertaining to those lands. The B.L. & L.R.O. allowed the petition and made correction of record of rights accordingly. The petitioners challenged the order of B.L. & L.R.O. by preferring a statutory appeal under Section 54 of the West Bengal Land Reforms Act, 1955. The appeal was allowed and the B.L.& L.R.O. was directed to restore the original entry in the L.R. Record of Rights.

The order of the Appellate Authority being D.L.& L.R.O. gave rise to two separate original applications being O.A. no. 2481 of 2022 and O.A. no. 1047 of 2023. The first one was preferred by the private respondents to assail the order of the D.L.& L.R.O., whereas the second one was instituted by the petitioners challenging the inaction of the B.L. & L.R.O. in implementing the order of the D.L.& L.R.O.

Both the original applications were taken up for analogous hearing and by the order impugned, both the parties were directed to maintain *status quo* with regard to the nature, character and possession of the suit property.

Additionally, the parties were also restrained from creating any third-party interest in the lands till the disposal of the original applications. Dissatisfied with this interim order, the petitioners have preferred these two writ petitions.

Mr. Mahato, learned Advocate representing the petitioners contend that the learned Tribunal below passed an interim order of stay of operation of the order of the D.L.& L.R.O. Such interim order was assailed in a writ petition vide. WPLRT no. 161 of 2022. He submits that while disposing of this writ petition, a coordinate Bench of this Court observed that the blanket order of stay of such nature could result in deprivation of the usufruct of the order passed in favour of the litigant who emerged successful in the lower tier of the adjudicatory system.

According to Mr. Mahato, the order impugned is also a blanket order of stay and therefore, the same cannot be sustained.

In rebuttal, Mr. Bhattacharya, learned advocate representing the private respondents, contends that the judgment and decree passed in the suit, are under an appeal which is pending for final adjudication. He argues that once an appeal is filed, the finality of the judgment and the order under appeal are thrown in jeopardy. As such, the decree of permanent injunction cannot be considered to be conclusive.

Quite apart from this, he took a plea that the present petitioner lacks *locus standi* to prefer an original application before the learned Tribunal challenging the inaction of the BL&LRO. He contends that the present writ petitions are not maintainable.

He further submits that the learned Tribunal has correctly passed the interim order with a view to preserve the property and as such, there is no scope for this Court to intervene in this matter.

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

Indisputably, a competent civil court, after evaluating oral and documentary evidence, has decreed the suit, declaring the three deeds null and void. The court has also passed a decree of permanent injunction restraining the private respondents from disturbing the plaintiff's peaceful possession and enjoyment of the lands. Though the private respondents have preferred an appeal against the judgment and decree but neither the appeal court nor any other higher forum has issued any interim order to suspend the operation of the judgment and decree. It is trite law that mere preference of an appeal shall not operate as stay of the judgment and decree impugned in the appeal.

The learned Tribunal while exercising the power of judicial review of the action or in-action of the B.L. & L.R.O. cannot evaluate the correctness of the judgment

and decree. Therefore, the learned Tribunal should refrain from passing any interim order that could potentially nullify or modify the decree or in any way deprive the party who successfully obtained the decree of permanent injunction.

In essence, the learned Tribunal below has issued a blanket order directing the parties to maintain status quo without providing any reason and therefore, we cannot endorse such order.

As a result, the part of the orders challenged in this writ petitions which directed the parties to maintain the status quo regarding the nature, character, and possession of the lands, and also restrained them from creating third-party interests, is set aside. We also do not agree with the opinion that the Tribunal should await the final outcome of the Title Appeal.

Needless to observe, the learned Tribunal shall make utmost effort to dispose of both the original applications as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

It is made clear that all the observations made in this order are solely for the purpose of disposing of the writ petitions preferred challenging the interim order. The learned Tribunal shall proceed without being influenced by any of the observations made in this order.

As the writ petitions have been disposed of without calling for affidavits, the allegation levelled against the

private respondents in the writ petitions shall be deemed to have been denied.

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

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