

Court No. 2

20.8.2024

(Item No. 36)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 7783 of 2024

Mr. Uttam Kumar Ghosh & Anr.

VS

The State of West Bengal & Ors.

Mr. Shiv Shankar Banerjee

Mr. Nilarnab Paul

.... For the petitioners

Mr. Soumitra Bandyopadhyay

Mr. Priyabrata Batabyal

.... For the State

Mr. Ranjan Saha

.... For respondent Nos. 5 & 6

Affidavit of service filed in Court today, is taken on record.

Mr. Shiv Shankar Banerjee, learned counsel appears for the petitioners.

Mr. Soumitra Bandyopadhyay, learned counsel appears for respondent Nos. 1 to 4.

Mr. Ranjan Saha, learned counsel appears for private respondent Nos. 5 and 6.

The petitioners have challenged the hearing notices both dated **February 21, 2024, annexure P-5** and **P-6** at **pages 27 and 28** respectively to the writ petition issued by the respondent No. 4 who is also the Revenue Officer under the statute. Through the said notices the petitioners were requested to appear before the respondent No. 4 on the date already fixed on February 29, 2024.

Learned counsel for the petitioners submits that, the petitioners have not appeared and prayed for

adjournment and then filed this writ petition in the month of March, 2024.

Learned counsel for the petitioners submits that, the said two hearing notices have been issued in disregard of the statutory provisions. No enquiry was made, neither any enquiry report was filed as required to be done under **Section 49 of the West Bengal Land Reforms Act, 1955**.

The prayers in the writ petition are for quashing of the said notices and the proceeding for annulment initiated under **Section 49 of the 1955 Act**.

After hearing the parties and upon perusal of the materials on record, it appears to this Court from the said two impugned notices that, the petitioners merely were called upon to appear before the respondent No. 4 and to participate in the hearing. It is not the case of the petitioners that, the respondent No. 4 has inherently been lacking with jurisdiction to issue the said two notices. On the contrary the statute authorizes the respondent No. 4 to issue the said two notices and to proceed with the annulment case. There is no jurisdictional error in issuing the said two notices by the respondent No. 4.

In view of the above, the respondent No. 4 shall once again intimate the date and time to be fixed for hearing before it to the petitioners at least before a

seven days prior for fixing the said hearing if the proceeding has not yet been disposed of.

The petitioners shall be at liberty to participate in the hearing and the petitioners on the first day of hearing shall also be at liberty to ask for necessary information and documents from the Revenue Officer on the basis where of the annulment proceeding was initiated and thereafter the proceeding shall take place strictly in accordance with law.

If the proceeding has not been concluded, the respondent No. 4 shall conclude the proceeding in accordance with law by passing its reasoned order and after affording an opportunity of hearing to the petitioners positively within a period of **six months** from the date of commencement of the proceeding.

It is made clear that, this Court has not gone into the merits of the claim of the petitioners and the petitioners shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon to defend the annulment proceeding before the respondent No. 4.

It is further made clear that, this order shall not create any right or equity in favour of the petitioners, if the petitioners do not succeed to their claim strictly in accordance with law before the respondent No. 4 in the annulment proceeding.

The respondent No. 4 shall proceed with the annulment proceeding independently and without

being influenced by any observation made by this Court but strictly in accordance with law.

The private respondent Nos. 5 and 6 shall also be served with the similar notice informing the date and time of the hearing and they shall also participate in the hearing and shall get an opportunity of hearing.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition **W.P.A. 7783 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)