

26.04.2024

Ct. 654

Sl.no.2

Ab/sn

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 8676 of 2024

Susanta Kumar Das

-Vs-

The State of West Bengal & Ors.

Mr. D. K. Adhikari,
Mr. Samir Kumar Adhikari,
Mr. Debdip Adhikari

... for the petitioner

Mr. Ayan Banerjee, through virtual mode,
Ms. Debasree Dhamali,
Mr. Amritalal Chatterjee

... for the State

Mr. Prolay Bhattacharya,
Ms. Munmun Tewary,
Ms. Sanchita De,
Ms. Moumita Das Bairagi

... for the private respondents

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

By the present writ petition, the petitioner has sought for a direction upon the State authorities for taking appropriate steps against the private respondents not to make pucca construction over the Government land in L. R. Plot No. 558 measuring more or less 50 decimals of land within Mouza-Gopiballavpur-I, J. L. No. 208, District-Jhargram.

Mr. D. K. Adhikari, learned advocate for the petitioner submits that the plot in question in R.S. Plot

No. 975 converted to L. R. Plot No. 558, area about 3.44 acres under Mouza-Gopiballavpur-I, J. L. No. 208 under Gobiballavpur-I Block, P.S. Gopiballavpur, District-Jhargram was vested to the State under the provisions of the West Bengal Estate Acquisition Act, 1953. The said land was settled to several persons under the provisions of Section 49 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 'Act of 1955'). The petitioner being a land less person was enjoying 50 decimals of land since the time of his predecessors-in-interest by way of cultivation. Without proper enquiry, impugned *patta* was granted to the extent of 50 decimals of land in favour of one Ramshasi Pandey. The said Ramshasi Pandey died unmarried without any legal heirs sometimes after issuance of *patta* in his favour. For such reason, the said area of land was divested to the State as per law. The private respondents, namely, Jaharlal Pandey and Sohanlal Pandey are strangers to the property in question. They have started making construction over the agricultural land without conversion and also without seeking permission from the concerned panchayat. The petitioner filed an application before the appropriate authority for annulment, on the ground of illegal settlement by way of *patta* and on the basis of the same the proceeding was initiated. Since the proceeding for annulment of *patta* was not disposed of by the authority concerned, the petitioner filed an application under

Section 10 read with Section 6 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (hereinafter referred to as the 'said Act of 1997') being O.A.3307 of 2019 before the Hon'ble West Bengal Land Reforms & Tenancy Tribunal seeking for a direction upon the respondent- Sub-Divisional Land Reforms Officer to conclude the proceeding initiated for annulment of *patta*. As the private respondents are illegally making construction over the agricultural land, the petitioner is constrained to file the present writ petition for proper relief. He seeks for appropriate order.

In reply to the contentions raised on behalf of the petitioner, Mr. Ayan Banerjee, learned advocate for the State-respondents through virtual mode submits that the main grievance of the petitioner is with regard to the recording and grant of *patta* in favour of one Ramsashi Pandey. On the basis of application of the petitioner, proceeding for annulment of *patta* has been initiated under the West Bengal Land Reforms Act, 1955, which is a specified Act under the said Act of 1997. Section 8 of the said Act of 1997 excludes the jurisdiction of the single Bench to entertain any proceedings or applications relating to land reforms or any matter connected thereto under any provisions of the Specified Act and as such the present writ petition is not maintainable and should be dismissed in *limini*.

Mr. Proloy Bhattacharyya, learned advocate for the private respondents submits that as per Section 6 of

the said Act of 1997 any inaction or culpable negligence of an authority under the Specified Act falls under the domain of the West Bengal Land Reforms and Tenancy Tribunal. He also submits that the present writ petition is not maintainable.

Upon hearing, at the outset, it is to be seen whether the present writ petition is maintainable.

Admittedly, the petitioner filed an application for annulment of *patta* in respect of the land in question. On the basis of such application, proceeding has been initiated in respect of cancellation of *patta*. Since the said proceeding has not been concluded, the petitioner has moved an application before the West Bengal Land Reforms and Tenancy Tribunal being O.A. 3307 of 2019. The sum and substance of the grievance of the petitioner is rooted in the grant of *patta* in respect of the land in question in favour of one Ramsashi Pandey under the West Bengal Land Reforms Act, 1955. As per Section 2(r) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, the West Bengal Land Reforms Act is a specified Act.

In order to appreciate the issue of maintainability of the writ petition as raised on behalf of the State-respondents as well as the private respondents, it would be apposite to reproduce Section 8 of the West Bengal Land Reforms and Tenancy Act, 1997.

“Section 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 applications 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 the aforesaid Section, it is manifest that the High Court, except where the Court exercises writ jurisdiction under Articles 226 and 227 of the Constitution by a Division Bench, shall not entertain any proceeding or application or exercise any jurisdiction, power or authority in relation to adjudication or trial of disputes or applications relating to land reforms or any matter connected therewith or incidental thereto or any other matter under any provision of a Specified Act. The dispute is of illegal construction without conversion of nature of land and illegal grant of *patta*. The aforesaid are matters relating to West Bengal Land Reforms Act and incidental thereto. Under the Act of 1997, the Act of 1955 is a Specified Act and thus there is exclusion of jurisdiction of this Court in terms of the aforesaid provisions. Bearing in mind the aforesaid, the present writ petition

is not maintainable and, therefore, is liable to be dismissed.

In the light of the aforesaid discussions, the writ petition being **WPA 8676 of 2024** stands dismissed.

All connected applications, if any, stand dismissed.

Interim order, if any, stands vacated.

There shall be no order as to costs.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

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.**)