

12.07.2024
Item No.18
Court No.11
Avijit Mitra

WPLRT 53 of 2024

In re: An application under Article 226 of the Constitution of India;

And

Sri Naba Kumar Das
- versus -
The State of West Bengal & ors.

Mr. Salil Kumar Maiti,
Mr. Pinaki Saha
...for the petitioner
Mr. T.M. Siddiqui, Ld. A.G.P.,
Mr. Supratim Dhar
....for the State respondents

Despite service, the private respondent no. 7 is unrepresented.

Throwing a challenge to the tenability of the order dated 24th January, 2024 passed by the learned Tribunal in O.A. No.2679 of 2021, the present writ petition has been instituted.

The order dated February 24, 2024, indicates that although the Tribunal observed that the petitioner approached the learned Tribunal without exhausting available remedies, it primarily declined to exercise jurisdiction, as prayed for by the petitioner, on the reasoning that the cloud over the title of the petitioner's vendor concerning the lands must first be addressed by the Civil Court before proceeding with the mutation issue.

Mr. Maiti, the petitioner's advocate, argues that based on a forged deed purportedly executed by Swapan Dhar in favor of Banerwar Dhar, which pertains to completely different plots of land, the entries in the record of rights for the lands in question

were altered. This alteration removed the petitioner's name and inserted the name of the private respondent.

Referring to an order dated January 17, 2020, issued by the Principal Secretary and the Land Reforms Commissioner, Government of West Bengal, he argues that upon receiving complaints from various parts of the state regarding alterations in records of rights based on forged deeds, the Principal Secretary directed the authorities concerned to restore the original entries without requiring the affected individuals to file statutory appeals.

Mr. Maiti contends that the petitioner's vendor, namely, Shankar Gope had purchased the lands from one Angurbala Das and her co-sharers. As the revenue records stood in name of Angurbala Das and her co-sharers, the petitioner approached the B.L. & L.R.O. for inserting his name in the records of right deleting the names of Angurbala & her co-sharers but turning a blind eye to the petitioner's prayer, name of one Kamal Das was inserted in the revenue records based on a fake deed.

He further argues that after confirming that the deed presented by Kamal Das was fraudulent, the alterations were reversed and the names of Angurbala and her co-sharers were reinstated. Consequently, the petitioner was compelled to approach the learned Tribunal. However, instead of addressing this issue, the Tribunal introduced an entirely new case and directed the petitioner to contest the title in the Civil Court. The petitioner contends that for these reasons, the order challenged in the writ petition cannot be sustained. He prayed for an order

directing the B.L.& L.R.O. to record the petitioner's name in the records of right pertaining to the lands.

In rebuttal, Mr. Siddiqui, learned Additional Government Pleader, assisted by Mr. Dhar, learned advocate, representing the State respondents, draws our attention to the prayers outlined in the OA 2679 of 2021, and contends that the petitioner's grievances have been redressed.

He elaborates on his contention by stating that the petitioner approached the learned Tribunal seeking a direction to set aside the order passed in mutation proceeding vide. MN/2020/1109/12917 (hereinafter referred to as the mutation case) and to restore the original entries in the revenue records. Presenting certain documents, he argues that upon receipt of complaint from the petitioner, an inquiry was conducted. Immediately upon ascertaining that the deed presented by Kamal Das was fake, the order passed in the mutation case was set aside and original entries were restored. Mr. Siddiqui asserts that in view of such facts, no further interference is warranted in this matter. The documents, as produced by Mr. Siddiqui, be taken on record.

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

To address the issue in the writ petition effectifely, it would be apposite to reproduce the prayer outlined in the OA 2679 of 2021, which is as follows:

'a) to pass an order thereby setting aside and quash the impugned order under challenge as passed in case No.MN/2020/1109/12917 i.e. Annexure 'P' herein thereby directing the concerned authority to restore the Raiyati Khatian of the case plots of land in favour of the original features and records'.

From the documents, as produced by Mr. Siddiqui, it transpires that upon ascertaining that the deed presented by Kamal Das was fraudulent, the order passed in the mutation case was set aside, and entries in records of rights were re-instated in the names of the original owners, namely, Angurbala and her co-sharers. Therefore, we have no qualm in endorsing the contention of Mr. Siddiqui that the grievances of the petitioner have virtually been redressed.

The order under scrutiny in the writ petition postulates that the learned Tribunal observed that the petitioner's vendor had purchased in name of Shankar Gope. The petitioner claimed that Shankar Gope and Satyabrata Gope were the same and identical person. As such, the learned Tribunal has noted uncertainty surrounding clear title of the petitioner's vendor concerning the lands. Therefore, it emphasized that issue of the title of the petitioner's vendor should be resolved first by the Civil court before proceeding with the mutation, as prayed for by the petitioner.

We do not find any infirmity or substantial miscarriage of justice or jurisdictional error, let alone any patent error of law in the order that would justify its intervention and accordingly, the writ petition is dismissed.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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

