

15.05.2024
Item No.13
Court No.11
Avijit Mitra

WPLRT 55 of 2024

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

And

Nazrul Biswas
- Versus -
The State of West Bengal & ors.

Mr. Golam Mostafa,
Mr. Subir Sabud
... for the petitioner
Mr. T.M. Siddique,
Mr. Supratim Dhar
...for the State respondents
Ms. Manali Biswas
...for the respondent no.5

Affidavit-of-service filed by the petitioner be kept on record.

Throwing a challenge to the propriety of the order dated 12th December, 2023 passed by the learned Tribunal in O.A. 776 of 2022, the present writ petition has been instituted.

The original application being O.A. no. 776 of 2022 was preferred seeking a direction upon the Block Land and Land Reforms Officer, Jalangi to delete the name of the private respondent from the L.R. Record of Rights prepared and published in respect of the lands in question and to insert the petitioner's name in that record of rights as raiyat.

Mr. Mustafa, learned advocate appearing for the petitioner submits that on the basis of such erroneous recording, the private respondent is making efforts to

change the nature and character of the lands and as such, the learned Tribunal ought to have passed the interim order, as prayed for by the petitioner.

In course of hearing, Ms. Biswas, learned advocate appearing for the respondent no.5 produced an order passed by the prescribed authority under Section 50(1) of the West Bengal Land Reforms Act, 1955 on 5/7.01.2022.

The said order runs as follows:

“Verification and confirmation from The Registration Authority is received. It is revealed that the Deed No 7475 of the year 2002 does not match with the deed produced by the O.P.

S/d

Prescribed Authority

U/S 50(1) of WBLR Act, 1955

B.L. & L.R.O. Jalangi

Murshidabad

The case is again put up today. Both parties were present. On basis of the confirmation received from The Registration Authority, It is found that the photocopy of deed being no 7475 of 2002 produced by the O.P. is not genuine. Hence it is Ordered that The mutation by which The O.P. is not genuine. Hence it is Ordered that The mutation by which The O.P. got his name recorded in the suit plot is cancelled treating the mutation proceeding as void-ab-initio and the land in question is restored under Section 50(1) of The W.B.L.R. Act, 1955 as per The Order No.213-1S/10/2020 dated 17/01/2020 of The Principal Secretary and Land Reforms Commissioner, west Bengal which is made a part of this proceeding and attached with this order sheet as a ready reference.

The Certified copies of this Order may be handed over to the parties concerned on payment of requisite fees/if applied properly.

S/d

Prescribed Authority

U/S 50(1) of WBLR Act, 1955

B.L. & L.R.O. Jalangi

Murshidabad ”

The order, as produced, be kept on record.

The order, as referred above postulates that the B.L.

& L.R.O. acting as a Prescribed Authority initiated a proceeding under Section 50(1) of the Act of 1955 and upon contested hearing, he concluded the same by passing an order dated 7.1.2022.

Needless to state that the said order is an appealable order but without preferring any statutory appeal against the same, the petitioner directly approached the learned Tribunal and even the petitioner has approached this Court with this writ petition taking a plea that the learned Tribunal has erroneously refused to pass the interim order, as prayed for by the petitioner.

Indisputably, the order dated 7.1.2022 is an appealable order but without exhausting the alternative remedy as was available to the petitioner, he preferred the original application and then this present writ petition. In such conspectus, we are of the view that both the original application and the writ petitioner are not maintainable.

In view thereof, the writ petition and the original application are dismissed, however, without any order as to the costs.

It is made clear that this order shall not preclude the petitioner from preferring a statutory appeal against the order dated 7.1.2022 before the competent authority in accordance with law.

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.)