

09.05.2024
Item No.10
RP
Ct. No.1

WPA(P) 173 of 2024

**Goutam Samanta & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Haradhan Banerjee
Mr. Amitava Pain
Mr. Partha Pratim Mukhopadhyay
Mr. N. Das

.....for Petitioner

Mr. Kishore Dutta, Ld. AG
Mr. Lalit Mohan Mahata
Mr. Supratim Dhar

.....for State

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder

.....for Howrah Municipal Corporation

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das

.....for the respondent nos.8 to 14

1. By way of filing this public interest litigation petition the petitioners challenge the constitutional validity of Section 4(C) of the West Bengal Land Reforms Act. There is also a challenge to the order of conversion passed during the year 2015 by the District Land and Land Reforms Officer permitting conversion of land from existing classification to bastu. There is also a challenge to the planning permission obtained by the concerned persons, in whose favour the conversion order has been passed.
2. In terms of Section 6(d) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 the tribunal has jurisdiction to decide application(s) relating to matters under any provisions of specified Act or matters relating to constitutional validity of any Act under the provisions of the specified Act. This power, in our view, is not only

efficacious but an effective remedy. Equally so, the challenge to the conversion order is also to be done before the Tribunal in terms of the said enactment.

3. Learned advocate for the petitioners would refer to Section 8 of the 1997 Act, which deals with exclusion of jurisdiction of a Court. It is a settled legal principle that jurisdiction of this Court under Articles 226 and 227 of the Constitution cannot be divested by a Statute nonetheless the Court has taken a view that when the Statute provides for an alternate remedy, an aggrieved persons should not be permitted to bypass such a remedy in terms of Section 4. The Tribunal consists of a Chairman with one judicial member and one administrative member. The Chairman and the judicial member shall be appointed by the Governor in consultation with the Chief Justice. In terms of sub-Section 3 of Section 4 no person shall be qualified for appointment as Chairman unless he has been a judge of a High Court or has held such a post for a period not less than one year in the office of the judicial member. Thus, taking the composition of the Tribunal into consideration the remedy before the Tribunal is not only efficacious but it is also an effective remedy. Therefore, in our view by way of public interest litigation petition the statutory provision or order of conversion cannot be entertained by this Court.
4. The learned advocate for the petitioners would submit that there is also a challenge to the planning permission granted in favour of the private respondents, who have utilized the land for putting up construction. Until and unless the petitioners are successful either in getting Section

4(C) of the Act declared as ultra vires or succeed in setting aside the order of conversion, the planning permission, which has been granted to the private respondents, will continue to remain valid. Assuming the petitioners are successful either in the challenge to Section 4(C) of the Act or in the challenge to the conversion order then it goes without saying that the planning permission which was granted would become void under law. Therefore, we are of the view that the petitioners should not bypass the statutory remedy available under the provisions of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.

5. For the above reasons, we decline to entertain the writ petition. In the result, the writ petition is dismissed. Liberty is granted to the petitioners to move before the Tribunal if so advised.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)