

0108
2024
THURSDAY

Court : 08
Item : DL-01-02
Matter : RVW-CPAN
Status : DISMISSED
Bench ID : 266006
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IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION (CONTEMPT)
APPELLATE SIDE

CPAN 627 of 2022

in

WPLRT 51 of 2022

(Ruma Kolya (Jana) Vs. Smaraki Mahapatra & Anr.)

&

RVW 121 of 2022

CAN 1 of 2022

of

WPLRT 51 of 2022

(The DLLRO & Anr. Vs. Ruma Kolya (Jana) & Anr.)

Mr. Mrinal Kanti Ghosh, Advocate

Mr. Jayanta Dey, Advocate

.....for the Petitioner

Mr. Md. T.M. Siddiqui, Advocate

Mr. Akash Dutta, Advocate

.....for the alleged Contemnor/State

RVW 121 of 2022

1. The instant review application is at the behest of the District Land and Land Reforms Officer, Paschim Medinipur seeking to review the judgment and order dated 08.06.2022 passed by this Bench disposing of the writ-petition being WPLRT 51 of 2022 directing the Block Land and Land Reforms Officer (BLLRO) to effect the changes in the record of rights on the basis of the deed executed in favour of the opposite parties herein within a timeframe. The said order/judgment vividly reflects the facts discerned from the record and the orders passed by the appellate authority setting aside the order of the BLLRO in refusing to entertain an application for mutation of the entries in the record of right on one pretext or another.

2. Though the appellate authority did not find the grounds of rejection being tenable but directed the matter to be considered afresh, obviously, in the light of the observations made therein. Even thereafter, the application for mutation was rejected taking another ground which also does not commend to the appellate authority. The last rejection was challenged by the opposite party before the Tribunal. But the Tribunal rejected the said application on the ground that unless the opposite party exhausts all the remedies provided under the West Bengal Land Reforms Act, 1955, the application to the Tribunal is not maintainable in view of Section 10(3)(b) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.
3. The argument was advanced before us that an exception is carved out in Section 10 of the Act of 1997 that the remedy provided in the Act, if resorted to, would cause an undue hardship. In the judgment under review the Court has considered the expression 'undue hardship' and also lucidly narrated the conduct of the BLLRO in dealing with the said application and held that the approach of the Tribunal in not activating the exception borne out from the said provision is erroneous and illegal. Ultimately, this Court allowed the writ-petition setting aside the judgment of the BLLRO and passed a direction upon the said authority to correct the record on the basis of the sale deed which as on date is valid having not declared void or illegal by the competent Civil Court.

4. The review is not aimed against the findings returned in the judgment/order under review but against the direction passed in the penultimate paragraph where this Court directed the record to be placed before the Principal Secretary, Land and Land Reforms, Government of West Bengal to initiate an appropriate proceeding. By the said direction, the Court did not make any aspersion against the said erring Officer as this Court was conscious that any adverse remark against the Officer without affording an opportunity of hearing to him is impermissible in law. The direction was passed to place the file before the Principal Secretary, Department of Land and Land Reforms, Government of West Bengal to take a conscious decision for initiation of the appropriate proceedings which cannot be said to be an error apparent on the face of the record for the purpose of review.
5. The review is not aimed to revisit the order or to rewrite the order in the manner that suits either of the parties. Review is to be exercised within the well-defined parameters enshrined under Order XLVII Rule 1 of the Code of Civil Procedure or in the event, there has been an apparent error in adopting the procedure leading to an ultimate decision taken by the Court. Empathy, sympathy and/or sentiments cannot be projected as a valid ground in the memorandum of review as well as an application filed by the applicant as it does not warrant any interference with the order dated 08.06.2022.

6. The review application being **RVW 121 of 2022** is thus **dismissed**. The connected application being **CAN 1 of 2022** also stand **dismissed**.

CPAN 627 of 2022

7. The contempt application was taken out alleging the wilful and deliberate violation of the solemn order dated 08.06.2022 in not correcting the record of rights as directed by this Court therein.
8. Today when the contempt application is taken out, Mr. Siddiqui, learned Advocate appearing for the alleged contemnor submits that the authority has complied with the said order by correcting the entries made in the record of rights though belatedly. Mr. Siddiqui thus tender unconditional apology for the delay in carrying out the said order.
9. Let the documents relating to compliance of the order as filed before this Court be kept with the record.
10. After taking into consideration the fact that the order has already been complied with though after filing of the contempt application and there is an apparent delay in this regard, we do not intend to proceed any further with the contempt application. But we do hereby observe that the authorities must comply the order within the time limited therein or in the event, there is no time indicated in the order, the compliance must be secured within a reasonable period of time eradicating any sense of disobedience or the

violation thereof. We hope and trust that the authority would keep the above aspect in their mind in future.

11. The contempt application being **CPAN 627 of 2022** is thus **dismissed**.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J)