

30.07.2024
Item No. 49
Crt.No.02
b.r.

WPA 15837 of 2023

Gopal Bairagi
-vs-
The State of West Bengal & Ors.

Mr. Uday Narayan Betal
Mr. Bhaskar Hutait
..... for the petitioner.

Mr. Chandi Charan De,Ld. AGP
Ms. Reshma Chatterjee
... for the State-respondent nos. 1 to 6.

Mr. Surajit Basu
Ms. Jasika Alam
Mr. Pritam Chakraborty
... for the Respondent nos. 7 and 10.

Affidavit of service filed in Court today, is taken on record.

On the prayer of Mr. Chandi Charan De, learned Additional Government Pleader, appears for respondent nos. 1 to 6, time to file report in the form of affidavit directed previously stands extended till today, the report in the form of affidavit filed today in Court, is taken on record.

On the prayer of Mr. Uday Narayan Betal, learned counsel appearing for the petitioner, time to file exception to the report in the form of affidavit stands till

today, the exception filed today in Court, is taken on record.

The petitioner claims to be a **patta-holder** in respect of **1.09 acres** of land. At this juncture, the petitioner complains of that a portion of the said patta-land has been taken in wrongful and forceful possession by the private respondent nos. 7 to 13. Out of the said private respondents only private respondent nos. 7 and 10 are represented through Mr. Surajit Basu, learned advocate. The petitioner claims back possession of the said part of land illegally, forcefully and wrongfully occupied by the said private respondent nos. 7 to 13.

Relying upon a Government Order **bearing No. 572-L.R./3M-18/03 dated February 27, 2003 annexure p-10 at page 39** to the writ petition, learned counsel, Mr. Uday Narayan Betal, appearing for the petitioner submits that by virtue of the said Government Order certain directions have been issued by the Government taking care of the situation that when patta-holder has been forcibly removed from patta-land by the private respondents, the remedies are made available, *inter alia*, under **Clause-(1)** of the provisions specified under the said **Government Order at page-40** to the writ petition to the effect that, if it is found that the patta-holder was actually in possession but subsequently he was removed from possession by

inductment or threat or otherwise, the occupier should be evicted and the possession of the patta-holder be restored. The petitioner seeks to enforce this Government order through this writ petition.

Referring to **annexure p-9 at page-34** to the writ petition, learned counsel for the petitioner submits that a representation dated **May 29, 2023** was submitted by the petitioner before the **respondent no.4** with a copy marked to the **respondent no.5** but the same has not yet been considered.

In the light of the above, the petitioner submits that this representation shall be directed to be considered by the appropriate authority applying the said **Government Order dated February 27, 2023**.

Mr. Chandi Charan De, learned Additional Government Pleader at the threshold raises the point of maintainability of this writ petition. He submits that the **Land Reforms and Tenancy Tribunal** formed under the **West Bengal Land Reforms and Tenancy Tribunal Act, 1997** is the jurisdictional forum where the petitioner should ventilate its grievance, if any. Referring to **Section 2 (r) of the Act of 1997**, he submits that the dispute raised by the petitioner is under the **West Bengal Land Reforms Act, 1955** and such Act being specified Act within the meaning of **Section 2(r)** of the

said **1997 Act**, the jurisdictional **Land Reforms and Tenancy Tribunal** is the only forum.

He prays for dismissal of the writ petition on this ground.

Mr. Surajit Basu, learned advocate appearing for the private respondent nos. 7 and 10 has denied and disputed the allegations raised by the petitioner. Referring to the representation submitted by the petitioner dated **May 29, 2023**, he submits that there is no particular allegation made against the private respondents as to the wrongful dispossession of the petitioner from his patta-land by the private respondents.

Per contra, learned counsel for the petitioner has denied the submissions made on behalf of the private respondents and the State. To counter the maintainability issue, learned counsel for the petitioner submits that since the petitioner is asking for implementation of an administrative decision of the State, writ petition is maintainable. In support, he has relied upon a decision of the Hon'ble Division Bench, ***In the matter of:- Bhandardaha Beel Matsyajibi Samabay Samity Limited & Another -versus- State of West Bengal & Others, reported at 2014(1) Cal. L.T.258.***

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that to adjudicate upon the issues raised by the petitioner that since the petitioner is a patta-holder of a land and the petitioner claims that a portion of such patta-land has been wrongfully and illegally taken possession by the private respondents and the private respondents has utilized the same, issues are required to be adjudicated upon by considering the provisions under the **West Bengal Land Reforms Act, 1955**. The said **1955 Act** has been classified as a specified Act under **Section 2(r)** of the said 1997 Act. Therefore, the Land Reforms and Tenancy Tribunal constituted under the said 1997 Act is the exclusive jurisdictional forum where the petitioner can ventilate its grievance. Inasmuch as, from the prayers in the writ petition, it appears that the reliefs claimed by the petitioner can be adjudicated upon before the jurisdictional Tribunal. **Section 6** of the said **1997 Act** providing jurisdiction of the Tribunal, in the opinion of this Court, squarely covers the disputes raised by the petitioner.

In the matter of:- Bhandardaha Beel Matsyajibi Samabay Samity Limited & Another (supra), a tender process was impugned which was issued by the jurisdictional B.L. & L.R.O. In the instant

case, admittedly the character of land is a patta-land and the dispute raised by the petitioner has a direct nexus and connection with such patta-land within the meaning of the **West Bengal Land Reforms Act, 1955**.

Hence, the ratio laid down *In the matter of:- Bhandardaha Beel Matsyajibi Samabay Samity Limited & Another(supra)* has no application in the facts situation of this case.

In view of the foregoing reasons and discussions, this Court is of the firm view that, this writ petition is not maintainable since there is an alternative, efficacious and speedy remedy is available before the jurisdictional Land Reforms and Tenancy Tribunal.

However, it is made clear that, this Court has not gone into the merits of the writ petition or the merits of the case made out by the petitioner or the private respondents. The petitioner and the private respondents shall be at liberty to urge whatever points they wish to urge before the jurisdictional Land Reforms and Tenancy Tribunal, if the petitioner institutes proceeding before such Tribunal.

If the petitioner institutes proceeding before the jurisdictional Tribunal, it shall proceed with the same by applying its independent mind and without being influenced by observation, if any, made by this Court. The jurisdictional Tribunal shall proceed to dispose of

the proceeding, if the same is instituted by the petitioner as expeditiously as possible without granting unnecessary adjournment to the parties.

Resultantly, this writ petition, **WPA 15837 of 2023** stands **dismissed**, without any order as to costs, but without going into any merits thereof, as held to be not maintainable.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)