

03.12.2024
Item No.06
Court No.11
Avijit Mitra

WPLRT 111 of 2024

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

And

Sekh Lutfar Rahaman @ Lutfar Rahaman Sekh & ors.

- versus -

The State of West Bengal & ors.

Mr. Rahul Karmakar,

Mr. Anuran Samanta

...for the petitioners

Sk. Md. Galib, Ld. A.G.P.,

Mr. Kapil Guha

...for the State respondents

Mr. Chittapriya Ghosh,

Ms. Priyanka Saha,

Ms. Maitrayee Chatterjee

....for the respondent no.6

1. In this writ petition the writ petitioner has prayed for issuance of a writ of mandamus for quashing of the judgment and order dated 1st May, 2023 as passed in O.A. 2915 of 2019 (LRTT) by the West Bengal Land Reforms and Tenancy Tribunal (hereinafter referred to as the said Tribunal, in short).
2. The subject matter pertaining to OA 2915 of 2019 and in the instant writ petition is recording of names of the petitioners in R.S. Plot No.1735 under Mouza Selimpur, J.L. No.30, R.S. Khatian No.279 under Police Station Jamalpur, District Purba Burdwan which is sought to be corrected at the instance of the private respondent no.6..

3. From the pleadings of the instant writ petition it appears that the said plot being R.S. Plot no.1735 measuring about 1.03 acre originally stood recorded in the name of one Panchanan Das Modak, since deceased. After the death of said Panchanan Das Modak, since deceased the said 1.03 acre of land in R.S. Plot No.1735 devolved upon his son, Sarat Chandra Das Modak, since deceased. It is the case of the writ petitioners that during the lifetime of the said Sarat Chandra Das Modak, since deceased he transferred 40 decimal of land in the said plot of land to the predecessors-in-interest of the writ petitioners namely; Sk. Wajed Ali, Sk. Habibur Rahaman and Sk. Abdul Kalam by executing an unregistered deed of settlement dated 06.02.1978.
4. It is the further case of the writ petitioners that on 17.07.1991 the said Sarat Chandra Das Modak, since deceased again transferred 3 decimal of land in favour of the respondent no.8 herein by executing a registered deed of conveyance.
5. It is the further case of the writ petitioner that after the death of the Sarat Chandra Das Modak, his legal heir being respondent 6 herein made an application before Block Land and Land Reforms Officer praying for rectification of the names of the 'record of rights' in respect in the aforementioned plot which was however rejected. The respondent no.6 herein preferred an

appeal challenging the order of rejection and the appellate authority while disposing the said appeal remanded the matter for fresh consideration.

6. After remand, the Block Land and Land Reforms Officer upon consideration of the entire materials however declined to make rectification in the 'record of rights' in respect of the said plot of land as prayed for by the respondent no.6 herein and thus challenging the said order of rejection the respondent no.6 for the second time approached before the appellate authority wherein he however could not achieve his success. The second order of the appellate authority as passed on 02.08.2019 in the appeal case no.217 of 2017, was impugned by preferring OA 2915 of 2019 (LRTT) before the said Tribunal.
7. The said Tribunal by the impugned judgement while dismissing the said OA 2915 of 2019 observed *inter alia* as follows :

“In addition to the above order, we do hereby direct the concerned B.L. & L.R.O. that the land records of the case land, prepared on the basis of the challenged deed of settlement dated 06.02.1978 be restored to its previous position prior to the existence of the said deed till determination of genuineness of the said deed dated 06.02.1978 by the competent Civil Court”.

8. Mr. Karmakar, learned advocate appearing for the petitioners submits before this Court that though by the impugned order the said Tribunal dismissed the original application being OA 2915 of 2019 but for the reasons best known to the said Tribunal it passed an

erroneous order directing the Block Land and Land Reforms Officer to restore the record of right to its previous position prior to the execution of the unregistered deed of settlement dated 06.02.1978.

9. It is submitted by Mr. Karmakar that the aforementioned order as quoted (*supra*) is self-contradictory and affects the valuable right of the writ petitioners in respect of the plot in question which is in possession of the writ petitioners by virtue of the said deed of settlement.
10. Mr. Karmakar thus submits that the instant writ petition may be allowed by expunging the above quoted portion of the impugned judgement as available in the internal page no.08 of the said judgement..
11. *Per contra*, Mr. Ghosh, learned advocate appearing on behalf of the respondent no.6 however contends that there is no scope to interfere with the order impugned inasmuch as by passing the aforementioned judgement as quoted (*supra*), no prejudice has been caused to the writ petitioner.
12. It is further submitted by Mr. Ghosh that in between the writ petitioners and the private respondents of the instant writ petition two title suits are pending before the jurisdictional Civil Court and therefore, the order impugned is not going to affect in any way the alleged right of the writ petitioners.

13. Mr. Galib, learned Additional Government Pleader enters appearance on behalf of the State.
14. Upon consideration of the entire materials as placed before us and after hearing the learned counsels appearing for the contending parties it appears to this Court that while dismissing the original application being OA 2915 of 2019, the said Tribunal upheld the finding of the appellate authority holding that the subject matter of the *lis* as pending before him falls within the jurisdiction of the Civil Court. We find sufficient justification in respect of the aforementioned finding of the said tribunal since the writ petitioners and the private respondent no.6 are at loggerheads in respect of their alleged title over a portion of the plot of land which has been allegedly transferred in favour of the predecessors-in-interest of the writ petitioners by virtue of a unregistered deed of settlement which the respondent no.6 is not ready to acknowledge and accept.
15. We thus find that the said Tribunal is thus very much justified in holding that the subject matter of dispute as involved in the aforementioned original application is within the domain of the Civil Court.
16. However, on perusal of the above quoted portion of the internal page no. 08 of the impugned judgment, it appears to this Court that after having arrived at a finding that the subject matter of the original

application falls within the jurisdiction of the Civil Court, the said Tribunal ought not to have passed a direction upon the Block Land and Land Reforms Officer to restore the record of rights to its original position prior to 06.02.1978 which, according to us, is contrary to the finding of the said Tribunal especially when the said Tribunal decides that the *lis* which is the subject matter of the original application falls within the domain of common law forum.

17. It is reported at the Bar that at least two civil suits are pending before the jurisdictional Civil Court and in one such suit, the writ petitioners being the plaintiffs have prayed for declaration of their right, title and interest over the plot of land in question as well as permanent injunction.
18. It is made known to us that at present an order of *status quo* is also prevailing over the suit plot of land.
19. In view thereof, we thus find sufficient merits in the instant writ petition and accordingly the instant writ petition is hereby allowed.
20. Consequently the portion of the judgement impugned directing the Block Land and Land Reforms Officer to restore the record of right to its previous position prior to the existence of the deed of settlement dated 06.02.1978 is hereby set aside.
21. Accordingly, the writ petition is disposed of.

22. Before parting with, it is however made clear that the observations as made hereinabove is purely limited for the disposal of the present writ petition and the jurisdictional Civil Court(s) who is/are in seisin over the civil suits between the parties to the instant writ petition are directed not to persuade himself/themselves with any of the observations made by us in this judgment.
23. There shall, however, be no order as to costs.
24. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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