

19.09.2024
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WPLRT 117 of 2024

Roma Ghose & Another
– *Versus* –
The State of West Bengal & Others

Mr. Amit Kumar Pan,
Mr. Arnab Mukherjee,
Mr. Subham Ghosh,
Ms. Shreyasi Manna
... for the Petitioners.
Sk. Md. Galib,
Ms. Sujata Mukherjee
... for the State/Respondents.

This present writ petition has been instituted to challenge the order dated July 2, 2024 passed by the learned Tribunal in the original application (in short, OA) being O.A. 1404 of 2024 (LRTT).

Mr. Pan, the learned advocate representing the petitioners, submits that in this case, the prescribed authority, as defined in Section 51A(4) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 1955 Act), initiated a *suo moto* proceedings intended to revise the finally published L.R. record-of-rights for the lands in question. In connection with these proceedings, a notice under Section 51A (4) read with Section 57 of the 1955 Act was served upon the petitioners.

He submits that Section 51A(4) of the 1955 Act has been amended by the West Bengal Land Reforms (Amendment) Act, 2023, which has removed the time limit previously prescribed for exercising power under Section 51A(4). According to Mr. Pan, since no time limit now exists for the revision of the finally published L.R. record-of-rights,

the residual provision of Article 137 of the Limitation Act will apply. He argues that because the action for revising the finally published L.R. record-of-rights has not been taken within the three-year period stipulated in this provision, the prescribed authority is now estopped from exercising such power. For this reason, he contends that the notice issued in connection with the *suo moto* proceeding is illegal. Given this context, the petitioners challenged the legality of that notice by preferring the original application (in short, OA), being O.A. 1404 of 2024.

He further contends that during the hearing of the original application, the learned advocate representing the State raised the issue of maintainability. However, by the order challenged in this writ petition, the date to decide this issue was scheduled for almost a year later, on July 23, 2025. Aggrieved thereby, the petitioners have filed the present writ petition to challenge this order.

Quite apart from the above, Mr. Pan argues that in the record-of-rights, the status of the present petitioners is recorded as '*dhakhaldar chirasthayi*.' He submits that this term is used to denote a non-agricultural tenant. He argues that the non-agricultural tenancy cannot fall under the purview of the West Bengal Estates Acquisition Act, 1953 (hereinafter referred to as the Act of 1953). Therefore, the State's claim that the plot of land vested upon the promulgation of Sections 4 and 5 of the Act of 1953 cannot be accepted.

However, Md. Galib, learned advocate representing the State respondents, vehemently opposes the contention

canvassed by Mr. Pan. He submits that final order has already been passed in the said proceeding, being Misc. Case no. 2989 of 2023 on 29th November, 2023. Let the written instruction, as produced, be taken on record. A copy of the final order has been handed over to Mr. Pan in Court today.

Since the proceeding has been terminated by the passing of a final order, we are not inclined to address the merits or make any comments on the points raised by Mr. Pan while pressing this writ petition. The petitioners are at liberty to file a statutory appeal before the appropriate authority in accordance with the law.

It is clarified that the petitioners shall apply for a certified copy of the order issued by the prescribed authority. After obtaining this copy, the petitioners will be at liberty to file the statutory appeal and raise all available points. They shall also have the liberty to cite the period lost due to the pendency of this proceeding, as well as to obtain the certified copy to address any issues of delay in filing the appeal.

Consequently, the writ petition as well as the O.A. are dismissed. There shall be no order as to the costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

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