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19.11.2024
Ct. No. 11
rrc

WPLRT 152 of 2024
(Swapan Kumar Sardar & Ors. Vs. The State of
West Bengal & Ors.)

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Abhirup Halder
Mr. Anirban Saha Ray
..... For the petitioners

Sk. Md. Galib
Mr. Abu Siddique Mallick
..... For the State respondents

Mr. Asit Kr. Bhattacharya
..... For the respondent no. 5

The writ petitioners and the private respondent are locked in a legal battle over the title to a piece of land measuring 21 decimals, appurtenant to R.S. and L.R. Plot No. 549 in Mouza Gocharan, P.S. Baruipur, District South 24 Parganas (hereinafter referred to as 'the said land'), and the incorporation of their names in the Record of Rights for the land. As reported, this dispute has resulted in three civil suits and one proceeding for correction of the Record of Rights, which has ultimately come before this Court through the present writ petition that challenges the order dated 12th April, 2024 passed by the learned Tribunal in an Original Application (in short, OA) being OA 819 of 2015.

By this order, the learned Tribunal directed the BL&LRO to dispose of the representation submitted by the original applicant/private respondent herein within a specific time

frame, after giving a fair and reasonable opportunity of hearing to the petitioners, the private respondent, and any other interested parties. The BL&LRO was directed to consider the current LR Record of Rights of the land in question and all relevant documents submitted by the parties before passing a reasoned order.

Mr. Bhattacharya, learned advocate for the writ petitioners, submits that following the dispute between the parties, three civil suits have been filed, which are awaiting final adjudication. He further submits that initially, the private respondent filed a suit seeking a decree of declaration that she is the owner of the entire land. However, she subsequently changed her stand and filed a suit for partition and separate possession of her share. In contrast, the petitioners have also instituted a suit seeking a decree of declaration that they are the absolute owners of the land.

Inviting our attention to the order dated 6.05.2023 passed by a Hon'ble Coordinate Bench in WPLRT 173 of 2022, which was filed to challenge an order passed at the interlocutory stage in OA 819 of 2015, he argues that the learned Tribunal was directed to dispose of the tribunal application on merits. However, the learned Tribunal erred in relegating the issue to the B.L. & L.R.O., which runs counter to the order of the Hon'ble Division Bench.

In rebuttal, Mr. Asit Kr. Bhattacharya, learned advocate representing the private respondent, contends that during the pendency of the aforementioned suits, the B.L. & L.R.O.

initiated a proceeding based on an application made by the writ petitioners. Without affording any opportunity for hearing to the private respondent, the B.L. & L.R.O. altered the entry in the Record of Rights by recording the names of the writ petitioners therein, behind the back of the private respondent. This prompted the petitioners to submit a representation to the B.L. & L.R.O. However, despite receiving the representation, the B.L. & L.R.O. left it unattended, compelling the private respondent to approach the learned Tribunal with OA 819 of 2015.

He argues that the learned Tribunal did not err in relegating the issue to the B.L. & L.R.O. for consideration. He further contends that, if the B.L. & L.R.O. considers the representation, neither party will be prejudiced.

Mr. Galib, learned Senior Government Advocate representing the State respondents, submits that at this stage, during the pendency of the suits, any alteration of the entries in the Record of Rights would be a futile exercise, as the final verdict in the aforesaid suits may necessitate further alterations to the entries recorded in the R-O-R.

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

The records reveal that, taking note of the pendency of the civil suit, the learned Tribunal, by its order dated 8.7.2022 passed in the OA, adjourned the matter sine die with liberty to the parties to mention the matter at an appropriate stage.

However, aggrieved by the order dated 8th July 2022, the private respondent herein filed the writ petition,

WPLRT 173 of 2022. The said writ petition was disposed of, inter alia, with the following observation:

“We thus do not find any fetter on the part of the Tribunal to hear out the tribunal application as the judgment, preliminary decree or final decree passed in the partition suit shall not impact the decision to be taken in the tribunal application on merit.”

In this context, we are of the view that, in light of the observations made by the Hon'ble Division Bench in WPLRT 173 of 2022, as referred to hereinabove, the learned Tribunal should have disposed of the tribunal application on merits, rather than relegating it to the BL&LRO for consideration.

In view thereof, the order under challenge in the writ petition is set aside, and the OA is restored to its original file and number.

We have been informed that the parties have already exchanged their affidavits and accordingly, the writ petition is disposed of by directing the learned Tribunal to dispose of the OA on merits without granting any unnecessary adjournments to either of the parties.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

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