

11
23.09.2024
adeb
Ct. No. 2

WPA 26348 of 2023

Chowdhury Habibur Rahaman & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya

Mr. Kaji Sajjad Alam

..... for the petitioners

Mr. Soumitra Bandyopadhyay

Mr. Priyabrata Batabyal

... for the State

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

Mr. Partha Sarathi Bhattacharyya, learned senior counsel appears for the petitioners.

Mr. Soumitra Bandyopadhyay, learned State counsel appears for **respondent nos. 1 to 3**. On the prayer of learned counsel for the petitioners leave is granted to the petitioners to file a supplementary affidavit affirmed on **July 3, 2024**.

Supplementary affidavit filed today in Court is taken on record. Copy has been served.

The writ petitioners have challenged the impugned order dated **January 16, 2024** passed **under Section 51A(4) of the West Bengal Land Reforms Act, 1955**.

Mr. Partha Sarathi Bhattacharyya, learned senior Counsel appearing for the petitioners on instruction submits that in terms of **Section 54 of the 1955 Act** the petitioners being aggrieved by the said impugned order dated **January 16, 2024** have already filed the statutory appeal being **OA No. 210 of 2024** filed on **March 11, 2024** pending before the appellate authority being **respondent no.2** herein.

Mr. Soumitra Bandyopadhyay, learned State counsel at the threshold raises the point of maintainability of this writ petition and submits that the entire action has been taken under the said **1955 Act**, thus the appropriate forum was the Land Reforms and Tenancy Tribunal.

After considering the rival contentions of the parties and after perusal of materials on record to expedite the procedure and to sub-serve justice, the **respondent no. 2** is directed to complete and conclude the hearing of the appeal being **OA No. 210 of 2024**, if is pending before it by passing a reasoned order in accordance with law after granting an opportunity of hearing to the petitioners positively within a period of **six weeks** from the date of communication of this order. The petitioners immediately thereafter shall collect the reasoned order from the office of the **respondent no. 2**.

It is made clear that this Court has not gone into the merits of the claim of the petitioners neither has gone into the rival contentions of the State-respondents.

The parties to the said pending appeal before the **respondent no. 2** shall be free to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the **respondent no. 2** but the same shall not travel beyond the scope of the appeal pending before it.

It is made clear that this order shall not create any right or equity in favour of the either parties, if they do not succeed to their respective contentions before the **respondent no. 2** strictly in accordance with law.

It is made clear that the appellate authority shall not be influenced by any observation made by this Court and shall proceed with the appeal on its own merit in accordance with law.

There shall be no coercive steps against the petitioners till **one week** after the said reasoned order shall be passed by the **respondent no. 2**.

Since the affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 26348 of 2023** stands **disposed of**, without any order as to costs.

Urgent photostat certified copy of the order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)