

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

**16.05.2024
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as**

WPLRT 1 of 2024

**Ram Sakha Singh
Vs.
State of West Bengal & Ors.**

Mr. Subham Ghosh,
Mr. Mayank Roy.
...for the Petitioner.

Mr. Bikash Ranjan Bhattacharyya,
Id. Sr. Adv.,
Mr. Anindya Lahiri,
Ms. Suman Sehanabis (Mondal)
...for the Respondent No.4.

Mr. Subir Kr. Saha, Id. A.G.P.,
Mr. Nabankur Paul.
....for the State.

1. Order dated 10.01.2024 passed by the West Bengal Land Reforms Tenancy Tribunal granting status quo in respect of nature, character and possession of the suit property and no third party interest to be created over the suit property is under challenge.
2. Petitioner submits he is the lawful owner of the property in question. In 1978 one Shyamal Kumar Kundu, since deceased had sold land measuring 8 cuttahas in favour of Smt. Narbada

Chhetri and Mina Adhikary vide two registered sale deeds. The said Smt. Narbada Chhetri and Mina Adhikary transferred the land in favour of Gopal Singh Chhetri vide two registered sale deeds. Prior thereto Gopal Singh Chhetri was the owner of 2 cuttahas and 8 chhataks in the plot. Gopal Singh Chhetri transferred his entire land comprising of 10 cuttahas 6 chhataks in favour of the petitioner and his wife Parbati Devi by two registered deeds of sale in 1994. Since then petitioner and his wife are in possession of the said land. In 2021, sons of Shyamal Kumar Kundu, since deceased, illegally transferred a portion of the land in favour of respondent No.4.

3. Under such circumstances, petitioner filed title suits praying for declaration and permanent injunction against the purchaser as well as the sons of Shyamal Kumar Kundu, since deceased. In the meantime, Vinod Kumar Jaiswal had entered his name in the record of rights. Before BL&LRO petitioner applied for rectification of the records and the records were rectified. In appeal, the order was confirmed.

4. This was challenged by respondent No.4 before the Tribunal in OA 3630 of 2023. The Tribunal without recording satisfaction with

regard to a *prima facie case* in favour of Vinod Kumar Jaiswal mechanically passed an order of status quo in respect of nature, character and possession of the suit property. He contends that the order of status quo be vacated.

5. Mr. Bhattacharyya, learned Senior Advocate submits respondent no.4 is the owner of the land in question. Deeds have not been cancelled by the Civil Court. Petitioner and his wife are not in possession of the property and failed to obtain an injunction against the respondent no.4 in the civil suit. In the event, the order of status quo is vacated he would enter into possession and this would give rise to multiplicity in proceedings.

6. In response, learned Advocate emphatically submits they are in possession of the property.

7. We have perused the impugned order. The order merely records two civil suits being T.S.55 of 2021 and T.S.209 of 2021 have been instituted by the petitioner challenging the validity of the deed of respondent No.4. The Tribunal did not record any finding with whether the petitioner or respondent No.4 were in possession of the suit property. It is not appropriate for an authority to pass a laconic order of status quo without

recording what the status quo was.¹ Tribunal also did not advert to the fact both BL&LRO and DL&LRO had come to a concurrent finding that deeds in favour of respondent No.4 were executed in latter point of time than that of the petitioner. There is no finding that the respondent no.4 had made out a *prima facie* case in his favour. Tribunal did not consider the three cardinal principles for grant of injunction, namely, *prima facie* case, balance of convenience and irreparable injury before passing the impugned order.² Casual observation that the injunction is necessary to avoid multiplicity of proceeding does not meet the gold standard when no satisfaction vis-a-vis *prima facie* case in favour of respondent no.4 was recorded.

8. Under such circumstances, we are of the opinion the impugned order granting injunction in the form of status quo suffers from patent illegality and material irregularity. Accordingly, the order is set aside. The matter is remanded before the Tribunal to consider the prayer for injunction afresh after adverting to the existence of a *prima facie* case in favour of respondent No.4

¹ Kishore Kumar Khaitan & Anr. vs. Parveen Kumar Singh; (2006)3 SCC 312

² Shyam Sel & Power Ltd. vs. Shyam Steel Industries Ltd. (2023) 1 SCC 634;
Ambalal Sarabhai Enterprise Ltd. vs. KS Infra LLP Ltd. (2020) 5 SCC 410

and other relevant considerations in accordance with law.

9. The tribunal shall take decision in the matter within two weeks from the date of communication of this order after giving opportunity of hearing to both the parties.

10. Save the directions in paragraph 8, other observations in the order shall not have binding effect on the Tribunal or in any other proceeding by and between the parties.

11. With these directions, the writ petition is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)