

Court No. 2
10.12.2024
(Item No. 1)
(AB)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench At Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

WPA 2608 of 2024

M/s. Buxa Dooars Tea Company (India) imited

-vs-

The State of West Bengal & Ors.

Mr. Abhrotosh Majumder, Ld. Sr. Adv.
Mr. Aniruddha Mitra, Ld. Sr. Adv.
Mr. Nirmalya Dasgupta
Mr. Aditya Chakraborty
Mr. Anirban Ghosh

..... for the petitioner.

Mr. Anirban Ray, Ld. G.P.
Mr. N. C. Chatterjee
Ms. Asmita Chakraborty

..... for the State.

Mr. Probal Mukherjee, Ld. Sr. Adv.
Mr. S.P. Tewary
Mr. Debasish Mukhopadhyay
Ms. Jeenia Rudra

.... For the Intervenor.

Mr. Ranadeb Sengupta
Ms. Madhusri Dutta

.... For the Trade Union.

This writ petition has been filed challenging the Standard Operating Procedure published through a gazette notification dated **November 11, 2024**, **annexure p-3 at page-76** to the writ petition read with the impugned letter dated **December 5, 2024** issued by **respondent no.4, annexure p-4 at page-82** to the writ petition.

Mr. Aniruddha Mitra, learned Senior counsel led by Mr. Abhrotosh Majumder, learned senior counsel appears for the petitioner.

Mr. Probal Kumar Mukherjee, learned Senior Counsel appearing for one Mr. Rithvik Bhattacharya claims that in favour of his client the management of the relevant Tea Estates are vested under the said **Standard Operating Procedure (for short, SOP)** issued by the State.

Mr. Mukherjee, learned Senior counsel submits that his client is not impleaded in the writ petition, who is a necessary and proper party.

In view of the above, since there is an extreme urgency involved in this writ petition as submitted by learned counsel appearing for the petitioner, the writ petition is taken up for consideration today and the point of maintainability is being heard as the preliminary issue.

Mr. Rithvik Bhattacharya is impleaded as a party respondent in the writ petition. He shall be impleaded in the cause title of the original writ petition in course of the day by the petitioner by putting the signature of the advocate-on-record for the petitioner on the cause title of the original writ petition.

Mr. Ranadeb Sengupta, learned counsel appears for the registered Trade Union of the workers, namely, **Trinamool Cha Bagan Shramik Union**. The said Trade Union is also impleaded in the writ petition and the advocate-on-record for the

petitioner by putting his signature on the cause title of the original writ petition shall implead the said Trade Union in course of the day.

Mr. Anirban Roy, learned senior counsel and Government Pleader submits that, the gazette notification has been issued in exercise of power under the provisions of the **West Bengal Estates Acquisition Act, 1953**. In view of the bar imposed under **sub-Section (r) to Section 2** read with **Section 8** of the **West Bengal Land Reforms and Tenancy Tribunal Act, 1997**, the jurisdictional Land Reforms and Tenancy Tribunal is the adjudicating authority and not this Writ Court.

Mr. Aniruddha Mitra, learned senior counsel appearing for the writ petitioner submits that, this alternative remedy cannot be an absolute bar for this Court to issue writ in the nature of mandamus which is a constitutional remedy. He submits that, day after tomorrow i.e. **December 12, 2024** is the date fixed for handing over possession of the **Raimatang Tea Estate** in favour of **Sri Rithvik Bhattacharya** and **December 19, 2024** is the date fixed for handing over possession of **Kalchini Tea Estate** in favour of **Sri Rithvik Bhattacharya**. He submits that, if day after tomorrow the possession is handed over then the right of the petitioner shall be seriously jeopardized and there may be further initiation of litigation. The petitioner may be without any remedy.

After considering the rival contentions of the parties, this Court is of the firm view that, in view of the bar imposed under the said 1997 Act in so far as 1953 Act is concerned, though alternative remedy may not be a strict bar to entertain the writ petition but it is a self-imposed restrictions, when a Writ Court shall exercise its jurisdiction. In as much as considering the prayers made in the Writ Petition particularly **prayers (c) and (d)** thereto, this Court is also of the view that, the petitioner has challenged the said gazette notification dated **November 6, 2024** which was issued under the Estate Acquisition Act. Furthermore, several fact finding enquiries may have to be gone into to adjudicate upon the issues involved in the writ petition, for which the jurisdictional tribunal is the appropriate forum.

In view of the above, petitioner shall be at liberty to apply before the jurisdictional Land Reforms and Tenancy Tribunal within a period of **one week** from date. The petitioner shall also be at liberty to take out appropriate interlocutory application in the proceeding seeking necessary interim order simultaneously. The day petitioner's application and interlocutory application shall be filed before the Tribunal, those will have to be registered on that day itself.

The jurisdictional Tribunal then first shall take up the interlocutory application, if filed by the petitioner and shall decide the same finally by passing a reasoned order after granting opportunity of hearing to the parties

thereto positively within a period of **10 days** from the date of filing of the same.

Then the Tribunal shall decide the main application as expeditiously as possible.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points it wishes to urge by relying upon whatever records and documents it wishes to rely upon before the jurisdictional Tribunal.

In the event, the proceeding is filed before the jurisdictional Tribunal, the Tribunal shall proceed with the same and come to its logical conclusion strictly in accordance with law and without being influenced by observation made by this Court, if any.

In exercise of its equitable jurisdiction this Court directs the respondents not to take any further steps till **two weeks** from the date of filing of the said application before the Tribunal, if the petitioner chooses to do so.

In the event, no such application is filed before the Tribunal by the petitioner within the time frame fixed above, the respondents shall be free to take steps in the matter in accordance with law.

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

This order, however, shall not be treated as a precedence.

With the above observations and directions, this writ petition, **WPA 2608 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)