

S/L 5
05.05.2025
Court. No. 19
Sourav

WPA 550 of 2024

**Laha Sporting Club
Vs.
The State of West Bengal & Ors.**

Mr. Nikhil Kr. Gupta

...for the petitioner.

Mr. Ayan Banerjee

Mr. Debapriya Chatterjee

...for the State.

Mr. Tulshi Das Roy

Mr. Arka Tilak Bhadra

...for the respondent no. 7/Municipality.

Mr. Tirthankar Roy

...for the respondent no. 9.

1. The affidavit-of-service as filed in Court today on behalf of the writ petitioner is taken on record.
2. This Court has heard the learned advocate for the writ petitioner, learned advocate for the respondent nos. 1 to 6 i.e., the State and its functionaries, learned advocate for the respondent no. 7/Panihati Municipality and the learned advocate for the respondent no. 9 at length.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities to demolish all construction over the L.R. Plot No. 506, 506/995 of Mouza – Tarapukuria, J.L. No. 12 in L.R. Khatian No. 1497 in the District – North 24 Parganas with a further prayer for issuance of appropriate writ/writs for consideration of the representation of the writ petitioner dated 28.11.2023 for declaring the said plot

of land as a Lakheraj/Niskar (revenue/rent free land) in terms of the provisions of ULC Act, 1976.

4. At the time of hearing, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 96 to 99 of the instant writ petition being a copy of the representation dated 28.11.2023 as submitted by the learned advocate for the writ petitioner with the Additional District Magistrate, North 24 Parganas at Barasat.
5. It is submitted that from the contents of the said representation, it would reveal that despite raising objection by the writ petitioner against illegal mutation, registration, conversion and sanction of several building plans the respondent authorities have taken no action as yet and on the contrary, they are practically sitting over the matter and thereby allowing the private respondent no. 9 to carry out illegal construction by filling the ponds as situated in the said plots of land.
6. Per contra, Mr. Banerjee, learned advocate appearing on behalf of the respondent/State and its functionaries at the very outset submits before this Court that the present writ petitioner being a local club has got no *locus standi* to file the instant writ petition in absence of any interest of the said club in the aforementioned two plots of land. It is contended further by Mr. Banerjee that before the appropriate authority, the writ petitioner/club has failed to produce any cogent documents either to substantiate their right, title and

interest over the said property and/or the said writ petitioner/club has also miserably failed to produce any document to come to a logical conclusion that the said two plots of land were acquired by the respondent/State at any point of time.

7. While adopting the argument of Mr. Banerjee, Mr. Roy, learned advocate appearing on behalf of the respondent no. 7/Municipality at the very outset draws attention of this Court to page nos. 84 and 85 of the instant writ petition being a copy of the order dated 04.05.2023 as passed by the appellate authority under Section 54 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as 'the said Act of 1955' in short). It is submitted by Mr. Roy that from the said order dated 04.05.2023, it would reveal that the appellate authority under Section 54 of the said Act of 1955 while disposing two appeals challenging mutation proceedings has come to a finding that the writ petitioner/club has been unable to produce any conclusive proof regarding any vesting proceeding as claimed to have been initiated under UL (C&R) Act, 1976.
8. It is further submitted by Mr. Roy that in absence of any contrary material, there cannot be any justification to interfere with such factual finding as has been observed by the said appellate authority under Section 54 of the said Act of 1955 in a judicial review.
9. At this juncture, Mr. Banerjee, learned advocate appearing on behalf of the respondent/State draws

attention of this Court to the different provisions of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (hereinafter referred to as 'the said Act of 1997' in short). It is submitted by Mr. Banerjee that Section 2(r)(ii) of the said Act of 1997 clearly specifies that the said Act of 1955 is a specified Act under the said Act of 1997. It is further submitted by Mr. Banerjee that on perusal of Section 6 of the said Act of 1997, it reveals that an order which has been passed by an authority under specified Act, the appropriate forum for challenging the said order is the Tribunal as has been constituted under Section 4 of the said Act of 1997.

10. It is thus submitted by Mr. Banerjee that in view of the aforementioned legislative provisions, this Court should not usurp the jurisdiction of the said Tribunal in exercise of the plenary power as envisaged under Article 226 of the Constitution of India.
11. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court finds sufficient justification in the submission of Mr. Banerjee in view of the fact that before this Court, the writ petitioner/club has miserably failed to produce a single scrap of paper to come to a finding that it has got some interest in the aforementioned plots of land.
12. As rightly pointed out by Mr. Roy, learned advocate appearing on behalf of the respondent no. 7/Municipality that challenging the two orders in two

separate mutation cases, the appellate authority under Section 54 of the said Act of 1955 has passed a favourable order in favour of the private respondents thereby the contentions of the writ petitioner were negated by the said appellate authority.

13. This Court also finds sufficient justification in the submission of Mr. Banerjee, learned advocate appearing on behalf of the respondent/State that admittedly, the said Act of 1955 is a specified Act under Section 2(r) of the said Act of 1997. Section 4 of the said Act of 1997 clearly envisages establishment of the Tribunal while Section 6 of the said Act of 1997 deals with jurisdiction, power and authority of the said Tribunal.
14. On careful perusal of Section 6 of the said Act of 1997, it appears to this Court that the order of the appellate authority as passed under Section 54 of the said Act of 1955 can be a subject matter of challenge in an appropriate proceeding before the said Tribunal under the provisions of Section 6 of the said Act of 1997.
15. On careful consideration of the entire materials, this Court thus finds no reason to usurp the jurisdiction of the Tribunal as has been vested to them under the said Act of 1997 in absence of any glaring illegality and/or irregularity and/or any perversity in the order as passed by the appellate authority under Section 54 of the said Act of 1955. This Court further considers that in the event, this Court directs the respondent/authority to

consider the writ petitioner's representation dated 28.11.2023 that will be a futile and contrary to the established principle of law.

16. In view of the discussions made hereinabove, this Court thus finds no justification to entertain the instant writ petition.
17. The instant writ petition being **WPA 550 of 2024**, in considered view of this Court, is devoid of any merit and is thus dismissed.
18. There shall, however, be no order as to costs.
19. The time consumed for proceeding before this Court in the instant writ petition may be considered by the said Tribunal if any application to that effect is filed before the Tribunal challenging the orders as passed in the aforementioned two appeals by the appellate authority, if so advised.
20. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)