

S/L 4
25.06.2025
Court. No. 19
Suwayan

WPA 2877 of 2024

**Sri Subir Roy
Vs.
The State of West Bengal & Ors.**

*Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
Ms. Paulami Chakraborty*

...for the petitioner.

*Mr. Chandi Charan De, AGP
Ms. Reshma Chatterjee*

...for the State.

Mr. Soumik Ganguli

...for the respondent no. 6.

1. This Court thus heard Mr. Roy, learned Advocate appearing on behalf of the writ petitioner, Mr. De, learned AGP appearing for the respondents/State and its functionaries and Mr. Ganguli, learned Advocate for the respondent no. 6.
2. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 2 for quashing and/or setting aside the order dated 03.05.2023 whereby and whereunder the respondent no. 2/authority on the basis of demarcation report dated 01.03.2023 as prepared by the respondent no. 12 came to a finding that for construction of Manachar-Katpul road the writ petitioner's alleged interest is no way prejudiced.
3. In course of his argument Mr. Roy at the very outset submits before this Court that it is the specific case of the writ petitioner that the writ petitioner is the owner

of 45 decimals of land in RS plot nos. 798 and 799. It is further submitted that subsequently the aforementioned two RS plot numbers have been amalgamated during LR operation and it has been re-numbered as LR plot no. 3257.

4. It is further submitted by Mr. Roy that since the respondent no. 6/authority has started construction of the aforementioned road utilizing a portion of the writ petitioner's aforementioned land without initiating any process of acquisition the writ petitioner approached a co-ordinate Bench of this Court by filing WPA 14198 of 2022 which came to be disposed of on 22.09.2022 when the said co-ordinate Bench directed the respondent no. 12/authority to prepare a demarcation report and further directed the respondent no. 2/authority to consider the grievance of the writ petitioner as placed before him by way of representation in the light of the said demarcation report after giving an opportunity of hearing to the writ petitioner and after supplying an advance copy of such report of the respondent no. 12/authority to the writ petitioner.
5. Mr. Roy further submits that on perusal of the demarcation report dated 01.03.2023 it has come to the notice of the writ petitioner that the respondent no. 12/authority most illogically came to a finding that LR plot no. 3256 is classified as 'rasta' and the writ petitioner is not a recorded Rayat of the said plot and further the respondent no. 12/authority again came to

a finding that the writ petitioner is a recorded Raiyat of LR plot no. 3257 which is classified as 'baluchar' and in such LR plot no. 3257 the writ petitioner is possessing 45 decimals of land and the name of the writ petitioner has been recorded in Khatian no. 1215 in Mouza – Nadiha.

6. It is submitted by Mr. Roy that such demarcation report as prepared by the respondent no. 2 is faulty inasmuch as on comparative study of two mouza maps, the copies which have been annexed at page nos. 80 and 81 of the instant writ petition it would reveal that the jurisdictional Land and Land Revenue Authority has not published the final LR RoR which is why in the mouza map at page no. 80 of the instant writ petition there was no existence of LR plot no. 3257.
7. It is thus submitted by Mr. Roy that the respondent no. 2/authority while passing the order under challenge dated 03.05.2023 most mechanically accepted the report dated 01.03.2023 as passed by the respondent no. 12/authority without giving due adherence of the objection as raised by the writ petitioner before him.
8. It is thus submitted by Mr. Roy that the order under challenge dated 03.05.2023 suffers from perversity and non-consideration of material facts as have been brought to the notice of the respondent no. 2/authority by way of filing written submission by the writ petitioner, a copy of which has been annexed at page nos. 73 to 78 in the instant writ petition. It has been submitted that in view of such gross irregularity and/or

illegality in the order under challenge appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayer as made by the instant writ petition.

9. *Per contra*, Mr. De, learned AGP appearing on behalf of the respondents/State vehemently opposes the contention of the learned Advocate for the writ petitioner. It is submitted by Mr. De that the grievance of the writ petitioner cannot be entertained by this Court in view of specific bar under Section 8 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (hereinafter referred to as the 'said Act of 1997'). It is further submitted by Mr. De that in the event the writ petitioner is aggrieved with the action of the respondent no. 12/authority which is the basis of the order under challenge the proper course of action of the writ petitioner would be to approach the tribunal as has been established under Section 4 of the said Act of 1997, keeping in mind that the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 'said Act of 1955') is a specified Act within the meaning of Section 2 (r) (ii) of the said Act of 1997.
10. Mr. Ganguli, learned Advocate appearing on behalf of the respondent no. 6 adopted the argument of Mr. De.
11. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given its due consideration over the submissions of the contending parties.

12. On careful perusal of the entire materials as placed before this Court it reveals that pursuant to a order of the co-ordinate Bench the respondent no. 12/authority after doing joint inspection prepared a demarcation report wherein it is the specific finding of the said respondent no. 12 that LR plot no. 3256 is classified as 'rasta' and the present writ petitioner is not the recorded Raiyat of the said plot. He has also come to a finding that the present writ petitioner is a recorded Raiyat to the extent of 45 decimals in LR plot no. 3257. It has also been noticed that the respondent no. 12 while preparing the demarcation report found that no portion of the writ petitioner's land in LR plot no. 3257 has been utilized for the purpose of construction of the aforementioned road by the respondent no. 6/authority.
13. It further appears to this Court that despite objection raised by the writ petitioner by way of written submission the respondent no. 2 while passing the order under challenge placed his reliance upon the said joint inspection report/demarcation report dated 01.03.2023 as submitted by the respondent no. 12/authority.
14. After hearing the argument of Mr. Roy, learned Advocate for the writ petitioner it appears to this Court that while challenging the order under challenge the writ petitioner has practically challenged the demarcation report dated 01.03.2023 as filed by the respondent no. 12. It is the specific contention of the

writ petitioner that such demarcation report is faulty inasmuch as on this day no LR RoR has been finally published in respect of the aforementioned plots.

15. At this juncture, if I look to the Chapter VII A of the said Act of 1955 it appears to this Court that it is the legislative mandate that modification and/or revision and/or preparation and/or draft and final publication and/or revision or correction of entry before final publication falls under the exclusive domain of the State Government in its executive action and such Record of Right can be modified, revised and published by the prescribed authority as mentioned in the said Chapter.
16. It appears to this Court that it is the grievance of the writ petitioner that without publication of the final LR RoR the said report dated 01.03.2023 has been prepared by the respondent no. 12/authority.
17. It thus appears to this Court that the writ petitioner while challenging the order under challenge as passed by the respondent no. 2 has practically raised a dispute complaining inaction and/or culpable negligence of respondent no. 12 who is an authority under the said Act of 1955 which is a specified Act under Section 2r (r) of the said Act of 1997.
18. At this juncture, if I look to the provision of Section 4 of the said Act of 1997 it would reveal that the Section 4 of the said Act of 1997 deals with the establishment of tribunal and composition and function thereof and

Section 6 of the said Act of 1997 deals with the jurisdiction, power and authority of the tribunal.

19. For effective adjudication of the instant *lis* this Court at this juncture proposes to look to Section 6 of the said Act of 1997 which is quoted hereinbelow in verbatim:

“6. Jurisdiction, power and authority of Tribunal.- *Subject to the other provisions of this Act, the Tribunal shall, with effect from such date as may be appointed by the State Government by notification in this behalf, exercise jurisdiction, power and authority in relation to-*

(a)

(b) *an application complaining inaction or culpable negligence of an Authority under a specified Act;*

(c)

(d)

(e)”

20. On perusal of Section 6 of the said Act of 1997 it thus appears to this Court that an application complaining inaction or culpable negligence of an authority under a specified Act which includes the said Act of 1955 comes under the jurisdiction of the tribunal as established under Section 4 of the said Act of 1997.

21. As discussed supra, since the writ petitioner has practically challenged the demarcation report dated 01.03.2023 as prepared by the respondent no. 12/authority who is an authority under the said specified Act of 1955 allegedly without publication of final LR RoR and since the order under challenge is based on such demarcation report this Court holds that

the grievance of the writ petitioner cannot be entertained in the instant writ petition for lack of jurisdiction.

22. With the aforementioned observation, the instant writ petition being WPA 2877 of 2024 is dismissed.

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

24. Before parting with it is, however, made clear that the dismissal of the instant writ petition will not debar the writ petitioner to approach the appropriate forum, if so advised.

25. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)