

S/L 4
01.5.2025
Court No.19
SD

WPA 3455 of 2025

Kazi Arindam

Vs.

The State of West Bengal & Ors.

Mr. Somnath Saha

...for the Petitioner.

Mr. Chandi Charan De, Ld. AGP

Mr. Soumitra Bandyopadhyay

Ms. Suchana Banerjee

Mr. Priyabrata Batabyal

...for the State.

Mr. Sirsanya Bandopadhyay

Mr. Tirthankar Dey

Mr. Arka Kumar Nag

...for the Bidhannagar Municipal Corporation.

1. The writ petitioner, the respondent-State and its functionaries and the respondent no.5 are represented by their respective counsels.

2. On behalf of the respondent-State, a report dated 28.3.2025 as submitted by the respondent no.3 is filed which is taken on record.

3. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities more specifically against the respondent no.3 for not considering the representation of the writ petitioner as communicated to him under cover of a letter dated 30.01.2025 by the learned advocate for the writ petitioner, a copy of which has been annexed at page nos.58 to 61 of the instant writ petition.

4. In course of hearing, Mr. Saha, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to the judgment and order dated 01.10.2024 as passed in WPA 20131 of 2024 whereby and whereunder a coordinate Bench of this Court while

disposing the said writ petition directed the respondent no.5-authority herein to consider the representation of the writ petitioner and to pass a reasoned order within a specified date.

5. At this juncture, Mr. Saha draws attention of this Court to page nos.56 and 57 of the instant writ petition being a copy of the reasoned order as passed by the respondent no.5. It is submitted that under cover of the said reasoned order dated 21.01.2025 the respondent no.5-authority has come to a finding that the request of the writ petitioner to amend/alter the existing record of Bidhannagar Municipal Corporation in respect of the property in question is possible only if the respondent no.3, that is, the jurisdictional B.L.&L.R.O. alters the records of rights.

6. Drawing attention of this Court to the report as filed on behalf of the respondent-State today, it is submitted by Mr. Saha that from page 3 of the said report it would reveal that the jurisdictional B.L.&L.R.O. being the respondent no.3 has come to a finding that for effecting mutation in respect of the questioned land instruction is required to be solicited from the L. & L.R. & R.R. & R. Department, Government of West Bengal.

7. At this juncture, Mr. Saha further submits before this Court that in view of such categorical finding there cannot be any predicament in directing the respondent no.3 to consider the representation dated 30.01.2025 as submitted by the writ petitioner through his learned advocate in accordance with law and to pass a reasoned order after giving an opportunity

of hearing to the writ petitioner and/or his legal representative.

8. Per contra, Mr. Batabyal, learned advocate duly led by Mr. De, learned Additional Government Pleader appearing for the State at the very outset draws attention of this Court to Section 2 (r) 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. Batabyal that on perusal of Section 2(r) of the said Act of 1997, it would reveal that West Bengal Land Reforms Act, 1955 (hereinafter referred to as 'the said Act of 1955', in short) comes under the category of specified Act.

9. At this juncture further attention of this Court is drawn to Section 6 of the said Act of 1997 vis-à-vis Section 8 of the said Act of 1997. It is argued on behalf of the State that in view of the provisions of Section 6 of the said Act of 1997, an application complaining inaction on the part of an Authority under the said Act of 1955 falls within the jurisdiction of the said Tribunal and in view of said statutory provision, such alleged inaction is not amenable to the writ jurisdiction in view of the provision of Section 8 of the said Act of 1997.

10. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court considers that for effective adjudication of the instant *lis*, some provisions of the said Act of 1997 are required to be looked into.

11. Section 2(r) of the said Act of 1997 reads as under:-

2. Definitions. – In this Act, unless there is anything repugnant in the subject or context, -

(r) “specified Act” means –

(i) ...

(ii) the West Bengal Land Reforms Act, 1955; or

(iii) ...

(iv) ...

(v) ...

(vi)

(vii) ...

12. Section 6 of the said Act of 1997 is quoted below 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) ...

13. Section 8 of the said Act of 1997 is quoted below:-

8. Exclusion of jurisdiction of courts. - On and from the date from which jurisdiction, power and authority become exercisable under this Act by the Tribunal, the High Court, except where that Court exercises writ jurisdiction under Articles 226 and 227 of the Constitution by a Division Bench, or any civil court, except the Supreme Court, shall not entertain any proceeding or application or exercise any jurisdiction, power or authority in relation to adjudication or trial of disputes or applications relating to land reforms or any matter connected therewith or incidental thereto or any other matter under any provision of a specified Act.

14. Keeping in mind the aforementioned legislative provisions, if I once again look to the reasoned order dated 21.01.2025 as passed by the respondent no.5-authority it reveals that the said respondent no.5-authority had come to a categorical finding that he can consider the request of the writ petitioner for correction of the name in the assessment register of Bidhannagar Municipal Corporation in respect of

the property located at Mouza – Krishnapur, Plot No.658P (RS), J.L. No. 17, P.S. Baguiati. In the event, the respondent no.3 alters the existing record of right in respect of the said piece of land.

15. At this juncture, if I look to the copy of the representation dated 30.01.2025 as issued by the writ petitioner through his learned advocate to the respondent no.3 it appears that on account of change of citizenship of the original lessee and also on account of issuance of no objection by the original lessee in favour of the writ petitioner, the writ petitioner made a request to the respondent no.3 authority to make necessary correction of records in respect of the aforementioned piece of land. No materials have been placed before this Court that the respondent no.3 had acted upon such representation which is why the instant writ petition has been filed complaining inaction and/or non-action on the part of the respondent no.3.

16. At this juncture, a question arises as to whether this Court sitting in writ jurisdiction under Article 226 of the Constitution of India can at all issue mandamus commanding the respondent no.3 to consider the representation dated 30.01.2025 as submitted on behalf of the writ petitioner.

17. It appears to this Court that the writ petitioner by filing the instant writ petition has made a complaint against the respondent no.3-authority regarding his inaction for correction of the record of right in respect of the aforementioned land under the provisions of the said Act of

1955 which is a specified Act and with the enactment of the said Act of 1997, the exercise of power under Article 226 of the Constitution of India by this writ court is strictly barred in view of the provision of Section 8 of the said Act of 1997 and on contrary, the jurisdiction is vested with the Tribunal as has been constituted under Section 4 of the said Act of 1997.

18. This Court is conscious that even if this Court has plenary power under Article 226 of the Constitution of India but this Court ought not to overlap the jurisdiction which is vested either with a Tribunal or with any other Court.

19. This Court thus considers that the instant writ petition cannot be entertained on account of lack of jurisdiction and is thus dismissed.

20. Before parting with, it is however made clear that this Court has made no observation with regard to the merit of the representation dated 30.01.2025 as submitted by the writ petitioner through his learned advocate and therefore, the points raised in such representation are kept open.

21. There will be no order as to costs.

22. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Partha Sarathi Sen, J.)