

07.03.2025
Item No.03
Court No.11
Avijit Mitra

WPLRT 30 of 2025

Smt. Chabbi Halder & anr.
- versus -
The State of West Bengal & ors.

Mr. Shyama Prasad Purkait,
Mr. Dinesh Mandal,
Ms. Moumita Mandal
...for the petitioners
Sk. Md. Galib, Sr. Govt. Adv.,
Ms. Priyamvada Singh
...for the State respondents
Mr. Suprabhat Bhattacharya
....for the respondent nos.6 & 7

Affidavit-of-service, as filed, be kept on record.

The present writ petition has been preferred challenging an order dated 5th December, 2024 passed by the learned Tribunal in an application for addition of party being MA 227 of 2014 filed in connection with the original application (hereinafter referred to as OA) being OA 113 of 2010. By the said order, the learned Tribunal was pleased to allow the application being MA 227 of 2014 and fix the main matter for hearing under the heading 'Motion' on 12th March, 2025.

Mr. Purkait, learned advocate appearing for the petitioners submits that the applicants in MA 227 of 2014 have no connection with the subject land. The title suit being Title Suit No. 505 of 1969 filed by the predecessors of the petitioners against the predecessors of the private respondents was decreed in favour of the plaintiffs.

Aggrieved thereby, the predecessors of the private respondents filed an application being Misc. Case No. 36 of 1970 for recalling which was also dismissed for '*non-prosecution*' by an order dated 11th January, 1971. Subsequent thereto, as the possession of the petitioners' predecessors over the subject land was being disturbed by the Tahasildar, they preferred Title Suit No. 165 of 1984 and got decree against the State and their right, title and interest over the subject land was declared. Thereafter, the petitioners' application for correction of record of rights preferred on the rudiments of the decree delivered in their favour was dismissed by an order dated 4th December, 2006. Aggrieved thereby, the petitioners preferred a statutory appeal which was also disposed of by an order dated 9th November, 2019 affirming the order passed by the Block Land and Land Reforms Officer. Challenging the said order, the petitioners filed the OA. For protection of their possession over the subject land and seeking police assistance, the petitioners preferred a writ petition being W.P.29108 (W) of 2015 which was disposed of by an order dated 6th January, 2016 observing *inter alia* that it is not the duty of the police to interfere in a dispute, which is civil in nature. Aggrieved by the said order, the petitioners preferred an appeal being MAT 303 of 2016 which was also disposed of by an order dated 6th April, 2016 without interfering with the order impugned.

According to Mr. Purkait the rights *inter se* the predecessors of the petitioners and the private respondents have already been decided by virtue of the decree passed way back in the year 1970. The petitioners' right over the subject land was also declared in the Title Suit No. 165 of 1984 preferred against the State. The private respondents have thus made an attempt to reinvigorate a class of claims which has been shut out permanently. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same.

Mr. Bhattacharya, learned advocate appearing for the respondent nos. 6 and 7, however, denies and disputes the contention of the petitioners and submits that the petitioners themselves added the private respondents herein as parties to the writ petition and in view thereof, the interest of the private respondents over the subject land cannot be ruled out and that their presence would be necessary for effective and complete adjudication of the OA. In appreciation of such fact and for final resolution of all the disputes *inter se* the parties, the learned Tribunal exercised discretion in favour of the private respondents and allowed their application for addition of party. There is, thus, no infirmity in the said order warranting interference of this Court.

Mr. Galib, learned senior Government Advocate appearing for the State draws our attention to the order passed by the Block Land and Land Reforms Officer and

submits that a perusal of the same would reveal that the private respondents have interest over the subject land and their presence is required for adjudication of the *lis* and that as such the application for addition of parties was rightly allowed by the learned Tribunal.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the order impugned in the present writ petition would reveal that the learned Tribunal had allowed the application being MA 227 of 2014 since the names of the applicants therein '*appear in so many adjudications and documents*'. However, the learned Tribunal did not arrive at any specific finding that the OA cannot be effectively and adequately decided in the absence of the applicants therein. The discretion as exercised is not supported with appropriate reasons.

The alleged claim of the private respondents pertaining to the subject land has already attained finality in the Title Suit No. 505 of 1969. In the admitted absence of any material on record as regards the right, title or interest of the applicants in MA 227 of 2014, the learned Tribunal ought not to have exercised discretion in their favour. While passing the order impugned, the learned Tribunal also did not consider the orders passed in the Title Suit No. 505 of 1969 and Title Suit No. 165 of 1984. The *lis* involved in the writ petition being W.P.29108 (W) of

2015, was pertaining to the disturbance of the possession and police assistance. The order passed in the same and in the appeal being MAT 303 of 2016, does not create any right in favour of the private respondents to be added as party respondents in the OA. In the said conspectus, the applicants in M.A. 227 of 2014 have no right to insist that they should be impleaded in the OA.

In view thereof, the part of the order impugned by which the application being M.A. 227 of 2014 was allowed, is set aside.

The learned Tribunal shall now proceed to dispose of the OA as expeditiously as possible, without granting any unnecessary adjournment to the parties.

With the above observations and directions, the writ petition is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty, J.)