

03.04.2025

DL. 35

S.D.

Ct. No. 26

W.P.L.R.T. 39 of 2024

Ashis Kumar Mondal

Vs

The State of West Bengal & Ors.

Mr. Supratim Dhar, Sr. Adv.,
Mr. Shantimay Bhattacharyya
Mr. Anirban Das

...For the Petitioner

Mr. T.M. Siddique, Ld. Sr. Adv.,
Mr. Ram Chandra Guchhait

..For the State

Writ petition is directed against an order dated January 2, 2024 passed in O.A. 199 of 2022 (LRTT) . By the impugned order, West Bengal Land Reforms Tenancy Tribunal set aside the decision of the appellate authority dated September 17, 2021 and directed the appellant authority to rehear the appeal afresh.

Learned advocate appearing for the writ petitioner submits that the private respondent is recorded as a Bargadar in respect of an immovable property. He points out that the extent of the area under Barga is noted in the Record of Rights. Therefore, there cannot be any error of calculation as sought to be recorded in the impugned

order. Moreover, there is no issue of breach of principles of natural justice since the private respondent was heard in the proceedings.

Learned Senior advocate appearing for the writ petitioner refers to the merits of the present case. He submits that there were prior proceedings for recovery of share of crop not paid for the private respondent being Bhag Chas cases. Such Bhag Chas cases were initiated under the provisions of the West Bengal Land Reforms Act, 1955 on the failure of the Bargadar in paying the share of the crop of the cultivation. He draws the attention of the Court to the previous orders passed in such Bhag Chas cases. He submits that the private respondent is a habitual defaulter. Private respondent never pays the share of the crop in respect of the land under Barga.

Learned Senior advocate appearing for the petitioner submits that in the present case, a sum of Rs.7,93,000/- was found to be payable by the private respondent. Out of such sum, a sum of Rs.2 lakh was paid leaving a balance of Rs.5,93,000/- due and payable by the private respondent.

Learned advocate appearing for the private respondent submits that her client is not cultivating the

land for a period of two years. She submits that one year the private respondent could not cultivate due to drought and the other year there was no cultivation. She seeks instalments for payment.

Non-cultivation of the land for two consecutive years by itself is a good ground for eviction of a Bargadar under the provisions of Section 17 of the West Bengal Land Reforms Act, 1955.

In any event, quantum fixed in the Bhag Chas case found to be due and payable by the private respondent to the writ petitioner was not paid by the private respondent.

Non-payment of the share of the crop is another ground for eviction of the Bargadar.

Prayer made for instalments cannot be accepted. The private respondent is a habitual defaulter and repeated Bhag Chas cases are required to be initiated for the purpose of realization of the share of the crop. Writ petitioner cannot be penalized for the defaults of the private respondent. Private respondent cannot take the shelter of his defaults and seek relief from the Court.

Quantum of land under Barga is appearing from the Record of Rights. Factum of cultivation stands admitted so far as relevant years are concerned. Therefore,

calculation made by the appellate authority cannot be faulted. No cogent ground appears from the order impugned as to why the order of the appellate authority was set aside and remand order was made. Breach of principles of natural justice is not attracted since the private respondent was heard both by the appellate authority as also by the Bhag Chas officer.

In such circumstances, the impugned order is set aside.

Petitioner is at liberty to execute the order passed by the Bhag Chas officer as affirmed by the appellate authority in accordance with law.

W.P.L.R.T. 39 of 2024 is **disposed of** accordingly without any order as to costs.

(Debangsu Basak, J.)

(Om Narayan Rai, J.)