

15.05.2025
Item no. 7.
Court No.19.
AB

W. P. A. 10541 of 2025

**Pratima Gord
Vs
The State of West Bengal & Others**

Ms. Pampa De (Dhabal),
Mr. Biswarup Chatterjee,
Ms. Sangita Banerjeefor the Petitioner.

Mr. Soumitra Bandyopadhyay,
Mr. Subhasis Bandyopadhyay
.....for the State Respondents.

Mr. Siddhartha Sarkar
....for the Respondent No.11, 12.

1. The affidavit of service as filed today on behalf of the writ petitioner is taken on record.
2. 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.7, to take immediate steps to stop and demolish the construction made by the respondent nos.11 and 12 by filling up the “pukur” situated at the Plot No.133, khatian no.668, J. L. No.4, Mouza Izzatpur, Police Station - Joypur, in the district of Bankura in terms of the show cause notice as has been issued by the respondent no.8 against the private respondent no.11 under Section 4C(5) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the “said Act of 1955 in short).

3. In course of her submission, Ms. Dhabal, learned advocate appearing on behalf of the writ petitioner, at the very outset, draws attention of this Court to page 18 of the instant writ petition, being a printout of the Live Data, in respect of the aforementioned plot of land. It is submitted that from the printout of the said Live Data in respect of the plot no.133, it would reveal that the said plot is classified as a “pukur” (waterbody). It is further submitted that from the said Live Data it would reveal further that the present writ petitioner and the private respondent nos.11 and 12 are the co-raiyats.
4. At this juncture, Ms. Dhabal, learned advocate for the writ petitioner, draws attention of this Court to the various annexures to the instant writ petition, being copies of several written complaints as made by the present petitioner with the different Authorities of the State of West Bengal, complaining illegal conversion and/or raising of illegal construction over a portion of the said waterbody at the instance of the respondent nos.11 and 12. At this juncture, Ms. Dhabal took me to page 30 of the instant writ petition, being a copy of the Memo dated 22.04.2025, as issued by the respondent no.8 authority, addressed to the private respondent nos.11 and 12. It is further submitted that from

the said Memo dated 22.04.2025, it would reveal that the respondent no.8, noticing illegal action on the part of the private respondent nos.11 and 12 in the aforementioned waterbody issued a show cause notice under Section 4C(5) of the said Act of 1955.

5. It is the grievance of the writ petitioner that despite issuing such show cause notice, the respondent no.7 for the reasons best known to him thereafter did nothing and taking advantage of the same the private respondent nos.11 and 12 are still making illegal construction over the said waterbody without making any conversion with regard to its character and without obtaining any sanction from any appropriate authority.
6. Per contra, learned advocate appearing on behalf of the Respondent/State submits before this Court that the instant writ petition is not maintainable in view of the provisions in Section 6 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.
7. Learned advocate for the private respondents echoes the submission of the learned advocate for the Respondent/State.
8. For effective adjudication of the instant lis, this Court, at the very outset, proposes to look into some of the provisions of the said Act of 1997.

On perusal of Section 2C(r) of the said Act of 1997, it reveals that the said Act of 1955 comes under the 'specified Act'.

9. Section 4 of the said Act of 1997 mandates establishment of Tribunal and composition and functions thereof whereas Section 6 of the said Act of 1997 clearly deals with jurisdiction, power and authority of the Tribunal.
10. This Court considers that Section 6 of the said Act of 1997 is required to be looked into for effective adjudication of the matter in dispute as involved in the instant writ petition. Section 6 of the said Act reads as follows:

“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)”

11. Keeping in mind the aforementioned legislation, if I look into the factual aspect of this case, it would reveal that materials have been placed before this Court that noticing some alleged illegal activities on the part of the respondent nos.11 and 12, the respondent no.8 under cover of his Memo dated 22.04.2025 issued a show

cause notice under Section 4C(5) of the Act of 1955 against the respondent nos.11 and 12.

12. It is the grievance of Ms. Dhabal, learned advocate for the writ petitioner that after issuing such show cause notice, the respondent no.7 for the reasons best known to him did not take any further steps. In considered view of this Court, such inaction on the part of the respondent no.7 comes within the jurisdiction of the Tribunal in terms of the provisions of Section 6(b) of the said Act of 1997.
13. This Court considers that since the writ petitioner has straightway approached this Court for exercising discretionary jurisdiction of this Court under Article 226 of the Constitution of India without availing alternate efficacious statutory remedy, this Court must be very slow in entertaining the instant writ petition in absence of any material to substantiate that there exists a strong case for invoking the extraordinary jurisdiction of this Court despite availability of the aforementioned alternate statutory efficacious remedy.
14. In view of such position, this Court finds no merit in the instant writ petition and, accordingly, the instant writ petition is dismissed.

15. Before parting with, it is, however, made clear that while disposing the instant writ petition, this Court has made no observation with regard to the right, title and interest of the writ petitioner as well as of the private respondents in respect of the aforementioned waterbody.
16. It is further made clear that since no affidavits have been called for, the allegations made in the instant writ petition are deemed to have been denied.
17. It is further made clear that the dismissal of the instant writ petition will not debar the writ petitioner to avail the alternate remedy, if so advised.
18. Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)