IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

W.P.L.R.T 331 OF 2005
Darjeeling Canning Company (P) Limited & Another
Vs.
West Bengal Land Reforms & Tenancy Tribunal & Others

For the Petitioners	: Mr. Pradip Kumar Tarafder, Sr. Adv. Mr. Subir Pal, Adv. Mr. Sourav Sengupta, Adv. Mr. Aritra Palit, Adv.
For the State	: Mr. Lalit Mohan Mahata, AGP. Mr. Prasanta Behari Mahata, Adv.
For the Respondent Nos. 8 to 14	: Mr. Sambuddha Dutta, Adv. Mr. Kazi Aashique Azfar, Adv.
Hearing Concluded on	: May 14, 2025
Judgement on	: May 20, 2025

DEBANGSU BASAK, J.:-

1. Writ petitioner has assailed an order dated May 06, 2005 passed by the West Bengal Land Reforms and Tenancy Tribunal in OA No. 2136 of 2003 (LRTT).

2. By the impugned order, learned Tribunal has dismissed the original application filed by the writ petitioner before the Tribunal.

3. Learned Senior Advocate appearing for the writ petitioners has contended that, the writ petitioner No. 1 is a company incorporated under the provisions of the Companies Act, 1956. Writ petitioner no. 1 had owned 51.21 acres of immovable property.

4. Learned Senior Advocate appearing for the writ petitioners has pointed out that, a notice dated September 13, 1995 was purported to be issued under Section 57 read with Sections 14T (3), 14L, 14P, 14U of the West Bengal Land Reforms Act, 1955 and Rule 14C of the West Bengal Land Reforms Rules. He has pointed out to the body of such notice and contended that, the authorities claimed that no return was filed by the writ petitioners in terms of Section 14T (10) of the Act of 1955 and that, the writ petitioners allegedly held land above the ceiling provision permitted as per the Section 14M of the Act of 1955.

5. Learned Senior Advocate appearing for the writ petitioners has contended that, the issue of vesting of land held by the writ petitioners stood decided by reason of a decree passed in civil suit. He has referred to the decree dated April 7, 1984 passed in Title Suit No. 42 of 1979 by the learned Munsif at Siligri. He has pointed out that State of

West Bengal was one of the defendants in such suit where, the learned Court was pleased to decree such suit and declare the title of the writ petitioner No. 1 to the suit land as also restrain the defendants in the suit, namely, the State of West Bengal by a decree of permanent injunction from interfering with the possession and enjoyment of the suit land of the writ petitioner No. 1.

6. Learned Senior Advocate appearing for the writ petitioners has relied upon an order dated October 4, 1991 and submitted that, proceedings under the Act of 1955 were undertaken and that, by an order dated October 29, 1991, the authorities had found that the total number of the shareholdres of the writ petitioner No. 1 being 29 and the land held by the writ petitioner No. 1 to be 46.86 acres which is far below the individual ceiling limits, the case was dropped. He has submitted that, once such finding was returned on October 29, 1991 by the authorities, the same issue could not be reopened.

7. Learned Senior Advocate appearing for the writ petitioners has pointed out that proceedings under Section14T (5) of the Act of 1955 was undertaken in respect of Big Raiyot Case No. 67 of 1957 which had culminated into the order dated October 29, 1991 by closing such proceedings. He has contended that, subsequent to such decision rendered in the proceedings under Section 14T (5) of the Act of 1955 no further proceedings can be taken for the purposed of vesting.

8. Learned Senior Advocate appearing for the writ petitioners has referred to Section 14Q of the Act of 1955 and contended that, 14Q(1) and 14Q(2) were available at the time when the proceedings under Section 14T (3) of the Act of 1955 were sought to be undertaken. On such date, the writ petitioner No. 1 by virtue of the number of its members it had, was entitled to hold land as decided in the proceedings under Section 14T (5) of the Act of 1955.

9. Learned Senior Advocate appearing for the writ petitioners has contended that, the writ petitioner No. 1 had filed a writ petition in which an interim order dated October 18, 1995 was passed. Such order had directed the respondent authorities not to proceed and take any steps pursuant to the Memo dated September 13, 1995 till disposal of the rule. He has pointed out that, such writ petition being CO No. 19024 (w) of 1995 was subsequently transferred to the Tribunal and was renumbered as TA 745 of 2000.

10. Learned Senior Advocate appearing for the writ petitioners has contended that, TA No. 745 of 2000 was dismissed by an order dated March 15, 2005. The writ petitioners had applied for review of the decision dated March 15, 2005 which was also dismissed. Thereafter, the authorities had passed the order of vesting dated April 11, 2003 and the order of taking possession dated April 16, 2003 both of which were assailed by the writ petitioners in the original application being OA 2136 of 2003 resulting in the impugned order.

11. Learned Senior Advocate appearing for the writ petitioners has contended that, learned Tribunal by the impugned order invoked provisions of Section 14Q of the Act of 1955 when, Section 14Q(1) and 14Q(2) were subsisting. Learned Tribunal has erred in proceeding on the basis as if, Sections 14Q(1) and 14Q(2) were not available in statute.

12. Learned Senior Advocate appearing for the writ petitioner has relied upon ***2007 Volume 3 Calcutta High Court Notes 683 (Niranjan Chatterjee & Ors. Vs. State of West Bengal & Ors.)*** as also ***W.P.L.R.T 43 of 2010 (Jai Hind Pvt. Ltd. vs. State of West Bengal & Ors.)*** in support of his contention. He has relied upon ***1991 Volume 4***

Supreme Court Cases 1 (State of Punjab and Others vs. Gurdev Singh) for the proposition that interim order subsisted till it was declared void or a nullity by a competent body or Court.

13. Learned advocate appearing for the State has submitted that, a Special Leave Petition was carried against ***Jai Hind Pvt. Ltd. (supra)*** by the State which is pending before the Hon'ble Supreme Court. He has pointed out that, there is an order of status quo passed by the Hon'ble Supreme Court in such Special Leave Petition.

14. Learned advocate appearing for the State has contended that, Section 14Q of the Act of 1955 cannot be construed in the manner as contended on behalf of the writ petitioners. He has submitted that a company is a legal entity and therefore at best it is entitled to retain land up to the ceiling as is permissible to a natural person or a family.

15. Learned advocate appearing for the State has contended that, the writ petitioner No. 1 is holding land in excess of the ceiling limit and therefore, proceedings under Section 14T (3) of the Act of 1955 were undertaken. Referring to Section 14T (3) of the Act of 1955 he has contended that, the same does not preclude the authorities from revising the area of land that is retained by an intermediary, from time to time. According to him, the revision of the retention as has been made by the State Authorities is correct.

16. The materials placed before us has established that, the writ petitioner No. 1 was holding 51.21 acres of land at the point of time when the Act of 1955 came into effect. A proceeding being Case No. 67 of 1957 had been initiated against the respondent No. 1 under the Act of 1955 and in such case, by an order dated October 26, 1970, 14.15 acres of land was vested with the State.

17. The respondent No. 1 had assailed the order dated October 26, 1970 passed in the vesting proceedings in Case no. 67 of 1957 by way of a Civil Suit being Title Suit No. 42 of 1979 in the Court of the learned Munsif at Siliguri. By a judgment and order dated April 7, 1984, such suit was decreed by declaring that the writ petitioner No. 1 was the owner in respect of the vested land and restrained the State of West Bengal by a decree by permanent injunction from interfering with the possession of the writ petitioner No. 1 over such vested land.

18. Writ petitioner No. 1 had made an application for correction of the record of rights in respect of 14.15 acres of vested land with the District Land and Land Reforms Officers, (DL & LRO) Darjeeling. Pursuant to such application, DL&LRO, Darjeeling by a letter dated April 11, 1990 had informed the Block Land & Land Reforms Officer, (BL & LRO) Siliguri to initiate a proceeding for correction of the record of rights, in accordance with law.

19. By an order dated May 11, 1990 the concerned BL&LRO had corrected the record of rights in respect of the 14.15 acres of vested land. The concerned BL&LRO had initiated a proceeding under Section 14T (5) of the Act of 1955. By an order dated October 19, 1991, the concerned BL&LRO had dropped such proceeding after holding that given the number of members of the writ petitioner No. 1 the total land of 46.86 acres standing in the name of the writ petitioner No. 1 was far below the individual ceiling limit. Such order had also observed that, the proceedings could be reopened if it was subsequently found that the respondent No. 1 or its members hold any extra land other than the land shown in the proceeding, anywhere in West Bengal.

20. Another proceeding being Case No. 9/14T (3)/suo motu/95 had been initiated in respect of the land held by the respondent No. 1. A notice with regard to such proceedings had been issued on September 13, 1995. The writ petitioners had challenged such notice and the proceedings bearing Case No. 9/14T (3)/suo motu/95 before the High Court by way of a writ petition being CO No. 19024 (W) of 1995. High Court had passed an interim order dated October 18, 1995 staying the notice of the proceedings till the dismissal of the writ petition.

21. Writ petition being CO 19024 (W) of 1995 had been transferred to the West Bengal Land Reforms and Tenancy Tribunal and was re-numbered as TA No. 745 of 2000. Interim order dated October 18, 1995 was not modified and extended by the learned tribunal on transfer of the writ petition to it.

22. West Bengal Land Reforms and Tenancy Tribunal by an order dated March 15, 2005 had dismissed TA No. 745 of 2000 holding inter alia that, issuance of the notice dated September 13, 1995 was within the jurisdiction of the Revenue Officer. Learned Tribunal has also held that the decree passed by the civil court does not affect the ceiling provisions of the Act of 1955. Writ petitioners had filed a review petition before the learned Tribunal being Misc. Case No. 245 of 2004 (LRTT) which was dismissed on December 2, 2003.

23. Consequent upon the dismissal of TA No. 745 of 2000, the Revenue Officer had passed an order of vesting dated April 11, 2003 and an order of taking possession dated April 16, 2003 in the proceedings No. 9/14T (3)/suo motu/95.

24. Writ petitioner No. 1 had thereafter approached the Tribunal for the second time by way of original application being OA No. 2136 of 2003 challenging the order of vesting dated April 11, 2003 and the order of possession dated April 14, 2003 passed in the proceeding No. 9/14T (3)/suo motu/95. Such original application has been dismissed by the impugned order dated May 6, 2005.

25. The Revenue Officer had initiated proceedings being Case No. 9/14 T (3)/sou motu/95 by the notice dated September 13, 1995, (the legality, validity and sufficiency of the notice being upheld by the tribunal in the earlier round of litigation) on the basis that, as on February 15, 1971 the writ petitioner No. 1 was having land in excess of the provisions of Chapter II-B of the West Bengal Land Reforms Act, 1955 as appearing from the RS record of rights in respect of various mouzas in the district of Darjeeling and that, the writ petitioner No. 1 did not furnish return in Form 7AA.

26. In such proceedings, the writ petitioners had been represented by an advocate. By an order dated October 10, 1995, Revenue Officer had requested the writ petitioners to furnish required documents and October 19, 1995 positively. On October 19, 1995, the writ petitioners were represented by their advocate before the Revenue Officer but did not produce any documents as had been permitted. The Revenue Officer had thereafter proceeded on the basis of the spot enquiry report and other materials placed before him to return the findings as noted in such order.

27. Writ petitioners have not placed any materials before us that the findings returned by the Revenue Officer in the order dated October 19, 1995 which was impugned before the learned tribunal, is perverse or contrary to any record. Nothing has been placed before us to establish that, the writ petitioner No. 1 was not holding land in excess of the ceiling prescribed in Chapter II-B of the Act of 1955.

28. Some of the issues and contentions which the writ petitioners have sought to raise in OA No. 2136 of 2003 (LRTT) and in the present writ petition were issues and contentions in the earlier round of litigation between the same parties before the Tribunal, being TA No. 745 of 2000, either raised or could have been raised and not raised. Therefore, the writ petitioners should not be permitted to re-agitate the same issues and/or contentions by way of a second Original Application or the present writ petition, having failed in the earlier round.

29. The legality, validity and sufficiency of the notice dated September 13, 1995 was directly and substantially in issue in the earlier proceedings before the learned Tribunal being TA No. 745 of 2000 disposed of by the order dated March 25, 2003. Learned Tribunal has noticed in the order dated March 25, 2003 that the writ petition being CO No. 1902 (W) of 1995 renumbered as TA 745 of 2000 and transferred to the Tribunal was filed challenging the notice dated September 13, 1995 issue in Case No. 9/14T (3)/sou moto/95. Points with regard to the validity, legality and sufficiency of such notice as also powers to revise the quantum of vesting under the Act of 1995 had either been raised or could have been raised and not raised. Parties before us are bound by such decision. They cannot be allowed to raise such issues in the present proceedings.

30. The contentions that, the order passed in the proceedings initiated by the notice dated September 13, 1995 is bad for various reasons, as contended herein were again, issues in TA No. 745 of 2000 or could have been raised as issues if not raised in such proceedings. Therefore, such contentions are barred by the principles of res judicata and/or constructive res judicata and/or principles analogous thereto.

31. The contention that, the order dated October 19, 1995 could not have been passed in view of the subsisting interim order passed in the writ petition, again is not available to the writ petitioners on the same principles of res judicata. The interim order dated October 18, 1995 passed in the writ petition was not communicated to the Revenue Officer on October 19, 1995 when such order had been passed. The record of proceedings before the Revenue Officer which has been noted in the impugned order meticulously by the learned Tribunal shows that, on October 19, 1995 the writ petitioners were represented before the Revenue Officer by an Advocate and that, the order sheet dated October 19, 1995 does not show that, the Revenue Officer was informed of the subsisting interim order dated October 18, 1995.

32. Before us also, nothing has been placed on behalf of the writ petitioners to establish that the order dated October 18, 1995 was communicated to the Revenue Officer on

October 19, 1995. On such ground also, the order dated October 19, 1995 cannot be faulted.

33. In the impugned order before us, learned Tribunal has noted that, the interim order passed in the earlier writ petition is dated October 18, 1995. Such writ petition had stood transferred to the Tribunal and re-numbered as TA 745 of 2000. Learned Tribunal by the impugned order has noticed the proviso to clause (b) of subsection (2) of section 9 of the LRTT Act and held that, the interim order stood vacated on the expiry of 12 weeks from the date appointed by the State government for the Tribunal to come into effect, under section 6 of the LRTT Act.

34. As has been rightly held by the learned Tribunal, the contentions of the writ petitioners with regard to section 14 Q of the Act of 1955 is of no consequence. The decree passed by the civil court, does not, as have been rightly held, decide the quantum of land that the writ petitioners are entitled to hold nor the quantum of vesting. Moreover, section 14 T (3) of the Act of 1955 vests jurisdiction upon the Revenue Officer to revise the quantum of land available with a raiyat in excess of the ceiling.

35. Ratio laid down in ***Jai Hind Private Limited (supra)*** is not attracted in the facts and circumstances of the present case in view of the earlier round of litigation between the same parties and the issue of res judicata. In any event, there is a special leave petition directed against ***Jai Hind Private Limited (supra)*** pending in which there is a status quo order subsisting.

36. ***Niranjan Chatterjee and others (supra***) has held that, a Tribunal cannot declare a decree of declaration of title and permanent injunction as a nullity being passed in violation of the provisions contained in section 57B (2) of the West Bengal Estate Acquisition Act, 1955. In the facts and circumstances of the present case, proceedings under section 14T (3) of the Act of 1955 had culminated subsequent to the writ petitioners having lost the earlier round of litigation and the issue as to the legality, validity and sufficiency of the notice under section 14 T (3) of the act of 1955 having decided as against the writ petitioners therein.

37. Again, the ratio of ***Gurdev Singh (supra)*** has no manner of application in view of the decision rendered by the tribunal in the earlier round of litigations between the same parties.

38. In view of the discussions above, we find no merit in the present writ petition.

39. WPLRT No. 331 of 2005 is dismissed without any orders as to cost.

[DEBANGSU BASAK, J.]

40. I agree.

[MD. SHABBAR RASHIDI, J.]