

S/L 6
27.10.2025
Court. No. 19
Suwayan

WPA 13167 of 2024

**Basudeb Biswas
Vs.
The State of West Bengal & Ors.**

*Mr. Kartick Kr. Bhattacharya
Mr. Subhas Ch. Datta
Ms. Soumashree Dutta
Ms. Papiya Naskar*

...for the petitioner.

*Mr. Sk. Md. Galib
Mr. Manish Biswas*

...for the State.

*Mr. Partha Pratim Roy
Mr. Samrat Chakraborty*

...for the respondent no. 6.

1. The affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
2. The writ petitioner, the respondents/State and its instrumentalities and the private respondent no. 6 are represented by their respective Counsels.
3. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocate for the writ petitioner it appears that the writ petitioner is aggrieved with the order dated 12.10.2023 as passed by the respondent no. 3/authority whereby and whereunder the said respondent no. 3/authority being the jurisdictional SDM in a proceeding under Section 49(2) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 'said Act of 1955') has been pleased to pass an order for keeping the proceeding under Section 49(2) of the said Act of 1955 in abeyance.

4. At the time of hearing, Mr. Baidya, learned Advocate appearing on behalf of the writ petitioner submits before this Court that on careful perusal of the entire orders as passed in the said proceeding by the respondent no. 3/authority it would reveal that the respondent no. 3/authority most mistakenly and erroneously kept the proceeding under Section 49(2) of the said Act of 1955 on account of pendency of a title suit between the writ petitioner and the private respondent though there was no prohibitory order passed by any competent Court of law to proceed with the aforementioned proceeding under the said Act of 1955.
5. It is thus submitted on behalf of the writ petitioner that in absence of any prohibitory order the respondent no. 3/authority is not at all justified in keeping the said proceeding under Section 49(2) of the said Act of 1955 in abeyance for an indefinite period.
6. It is thus submitted that it is a fit case for granting the reliefs as prayed for by the writ petitioner.
7. Per contra, Mr. Galib, learned Advocate appearing on behalf of the respondents/State and its instrumentalities at the very outset raises the point of maintainability of the instant writ petition. It is argued by Mr. Galib that in view of the provision of Section 6(b) read with Section 2(r) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (hereinafter referred to as the 'said Act of 1997') this Court has got no jurisdiction to grant relief in the instant writ

petition for lack of jurisdiction since such jurisdiction is vested with the tribunal as constituted under Section 4 of the said Act of 1997.

8. Mr. Roy, learned Advocate appearing on behalf of the private respondent no. 6 adopts the argument of Mr. Galib.
9. On careful perusal of the entire materials as placed before this Court it reveals that sufficient materials have been placed before this Court that the respondent no. 4/authority has initiated a proceeding under Section 49(2) of the said Act of 1955 on the basis of an application made by the writ petitioner praying for allotment of patta in favour of the private respondent no. 6.
10. On further careful perusal of the order dated 12.10.2023 as passed by the respondent no. 4/authority it reveals that the respondent no. 4/authority passed an order for keeping the said proceeding in abeyance on account of pendency of a title suit.
11. By filing the instant writ petition the writ petitioner has challenged the justifiability of the said order by the respondent no. 4/authority in absence of any prohibitory order by a competent Court of law.
12. At this juncture, if I look to the provision of Section 2(r) of the said Act of 1997 it reveals that the said Act of 1955 comes under the purview of 'specified Act'.
13. As rightly pointed out by Mr. Galib that an application complaining inaction or culpable negligence of an

authority under a 'specified Act' falls within jurisdiction, power and authority of the tribunal as constituted under Section 4 of the said Act of 1997.

14. In view of such legal position, this Court is constrained to hold that the writ petitioner has approached a wrong forum for ventilating his grievance.

15. This Court thus holds that WPA 13167 of 2024 is not maintainable and is thus dismissed.

16. However, there shall be no order as to costs.

17. However, keeping in mind that the writ petitioner is pursuing his remedy before a wrong forum, may be under a wrong conception, liberty is given to the writ petitioner to approach the tribunal as constituted under Section 4 of the said Act of 1997 and in the event such approach is made within 45 working days from today the said tribunal shall condone the delay, if there be any, in filing the application made by the writ petitioner, if so advised.

18. Before parting with, this Court requests the West Bengal Land Reforms and Tenancy Tribunal to act on the server copy of this order.

19. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)