22.01.2025
Court No.13
Item No.2
Sudipta/AP

WPLRT 840 of 2000
With
CAN 4 of 2016 (Old No: CAN 11432 of 2016)
With
CAN 9 of 2019 (Old No: CAN 9698 of 2019)

Shakina Biswas & Ors.
(Surat Ali Biswas since deceased)
Vs.
The State of West Bengal & Ors.

Mr. Debnath Ghosh, Ld. Sr. Adv.,
Mr. P. C. Paul Chowdhury, Adv.,
Mr. D. N. Mukherjee, Adv.
… For the Petitioners.

Mr. Lalit Mohan Mahata, AGP,
Mr. Ziaul Haque, Adv.,
Mr. P. B. Mahata, Adv.
… For the State.

1. The writ petitioners challenges an order dated 22nd September, 2000 passed by the West Bengal Land Reforms and Tenancy Tribunal (WBLRTT), whereby the Tribunal refused to interfere with an order of the Revenue Officer dated 27th July, 1995 passed under Section 14T (3A) of the WBLR Act of 1955 in suo moto proceedings no. 1/14T(3A)/LR/HK/Suo/95.

2. The case of the petitioner in summary is as follows.

3. The present writ petitioners are the legal heirs of one Surat Ali Biswas, the applicant before the Tribunal. He

was the son of one Jahar Ali Biswas, the original land owner.

4. It is submitted that as on 30th October, 1985, in a proceeding before the Revenue Officer, Hanskhali, Nadia, the said Surat Ali Biswas had declared that his father died in the year 1967. As a consequence whereof the petitioners Surat Ali Biswas, would have been entitled to the entire land holding of his father Jahar Ali Biswas which comprised in about 38.08 acre.

5. In essence in the first proceeding the Revenue Officer held that the mischief under Section 14P of the WBLR Act, 1955 would not be attracted in the case of the petitioner. Consequently no part of the land holding of the said Jahar Ali Biswas could vest in the State.

6. It was subsequently discovered that by the Revenue Authorities that the petitioners perpetrated of fraud on the State. The fraud was a wrongful declaration on the death of the petitioner's father Jahar Ali Biswas. Jahar Ali Biswas actually died in the year 1974.

7. A suo moto proceedings under Section 14 T(3A) was taken out by the Revenue Officer, Hanskhali, Nadia District. After due proceedings under the Act, 1955, and the Rules frames thereunder. The Revenue Officer held that Jahar Ali Biswas was a single person without

a family. The existence of the alleged third wife of Jahar Ali Biswas, namely, Kahel Banu and the petitioner Surat Ali Biswas was also excluded from the scope of family on the ground that he had, land registered in his favour. The benefit of Section 14 P (3) was also denied to the petitioner.

8. Based on the above, the Revenue Officer held that the Jahar Ali Biswas is entitled to land to the extent of 8.65 acres and the rest of property would vest in the State.

9. Upon the order of the Revenue Officer being challenged before the LRTT in TA 1106 of 2000, the Tribunal in the impugned order dated 22nd September 2000 refused to accept the contentions of the writ petitioners and hence the instant writ petition.

10. Learned Senior Counsel, Mr. Debnath Ghosh, has argued as follows before this court.

   a. The expression definition of family under Section 14 KC of the Act of 1955 would kick in favour of the petitioner since (i) Jahar Ali Biswas had at the time of his death in 1974, a surviving wife called Kahel Banu. (ii) the petitioner was the son of the Jahar Ali Biswas. He in fact had some land in his favour which he had disposed of in the year 1970.

b. It is further argued that the Revenue Officer could not have suo moto reopened the original finding in the first case dated 30th October, 1985 beyond a period of three years therefrom. Reliance is placed in this regard in the decision of the Division Bench of this Court in the case of **Dibakar Mondal Vs. State of West Bengal** reported in **2006 SCC OnLine Cal 626**.

c. In course of this proceeding the petitioners filed CAN 9698 of 2019, inter alia, complaining that the land originally belonging to his father that vested in the State was being constantly transferred and re-transferred in favour of the third parties. The nature and character of some lands have also been converted. It is also argued that even the entitlement of the petitioner even as declared by the Revenue Officer was not being given to him. There is encroachment and transfer of such properties as well. An order of status quo and injunction was passed by a Co-ordinate Bench on 08.11.2000.

11. The State was directed to file the affidavit in opposition to the said CAN application which is placed before this Court.

12. The petitioner was also granted leave to amend the writ petition by bringing in the additional facts and subsequent events discovered.

13. This Court has carefully considered the arguments advanced by the leaned Senior Counsel Mr. Ghosh for the writ petitioner and Mr. Mahata, learned counsel for the State.

14. Insofar as the jurisdiction of the Revenue Officer is concerned, this Court notes firstly that the issue was not even urged before the Tribunal. The Tribunal obviously did not have occasion to consider the same. However, since a question of law has been raised and a decision of Co-ordinate Bench in the case of **Dibakar Mondal (supra)** has been cited, this Court shall consider the application and scope of Section 14 T(3A).

15. In the **Dibakar Mondal decision (supra)**, it is clearly the scope of the Section has been discussed in detail by the Co-ordinate Bench. This Court does not wish to add anything further to the same. Such discussion appears to be appropriate and sound.

16. What, however, must be noted is that Section 14 T (3A) of the Act of 1955 does not prescribe in period of limitation for its invocation. It is now well settled when a statute does not prescribe any period of limitation

within which powers are required to be invoked the normal period of delay and latches is applied.

17. The matter, however, assumes a completely different character when a Raiyat under the Act of 1955 perpetrates fraud on the statute. It is essentially a reasonable time from which the fraud is discovered by the State that would be the sole factor for assessing as to whether there is any inordinate and undue delay on the part of the State or any prejudice caused to a Raiyat or person claiming therefrom.

18. In the instant case clearly the original writ petitioner Surat Ali Biswas, had attempted and had succeeded in defrauding the authorities under the 1955 Act by misrepresenting that his father died in the year 1967. The Revenue Officer found that the father of the petitioner Jahar Ali Biswas executed Heba Namas (gift deeds in the Mohammedan Law) in the year 1971. Registration of such deed was also done.

19. A dead person obviously cannot execute gift deeds. The factum of Jahar Ali Biswas having died in 1974 was discovered by the State in the year 1994-95. The death certificate issued by the Pradhan of the concerned Gram Panchayat relied upon by the Surat Ali Biswas in the first proceedings was found to be fake.

20. In the above circumstances this Court is of the clear and unequivocal view that there has not been any delay and latches on the part of the State in invoking the provision of Section 14 T (3A).

21. Let us now considered the issues on merits raised by the learned counsel for the petitioner. This Court has no way of ascertaining the veracity of such contentions since the objections of the petitioner before the Revenue Officer have not been disclosed before this Court.

22. In so far as notices to the alleged third wife of Jahar Ali Biswas, namely, Kohel Banu, it appears that as on 1995 Kohel Banu may not have survived. Notices are supposed to have received by said Kohel Banu despite whereof no appearance was caused before the Revenue Officer in that regard. The Revenue Officer, therefore, had no option other than proceed on the basis of the records and pleadings available before him.

23. This Court is, therefore, in no position to test the propriety of the findings of the Revenue Officer even to a limited extent under Article 226 of the Constitution of India in the absence of any pleadings and objections of the petitioner filed thereat being disclosed in this proceeding.

24. For that matter even pleadings before the LRTT have not been filed by the writ petitioner. The LRTT proceeded on the basis of the records available before it. This Court, even on a prima facie consideration of the findings of the Revenue Officer and the LRTT, is, therefore, wholly unable to deal with the contentions raised by the writ petitioner both in fact and law.

25. In any event, a writ Court under Article 226 of the Constitution of India does not sit in appeal over the findings of a specially constituted Tribunal under a Statute and that of the Revenue Officer functioning under the Act of 1955.

26. No relief can, therefore, be given to the writ petitioner.

27. In so far as the last submission of Mr. Ghosh is concerned that he should at least be given the 8.65 acres land, found to be entitled by the Revenue Officer, this Court finds as follows.

28. In the affidavit-in-opposition filed by the State to CAN 9698 of 2019, it has been clearly specified at Page 40 that 8.65 acres of land is the extent available to in the late Raiyat Jahar Ali Biswas. The petitioner shall be entitled to the same.

29. In the event the legal heirs of Surat Ali Biswas apply for mutation of their names in the prescribed format and

comply with necessary formalities, the Revenue Authority under the Act of 1955 shall take steps to effect mutation in their names, strictly in accordance with law.

30. With the aforesaid observations, the writ petition shall stand disposed of.

31. In view of the disposal of the main writ petition, connected pending applications, if any, shall also stand disposed of.

32. There shall be no order as to costs.

33. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)