

Item No.15
13.05.2025
Court. No. 19
GB

W.P.A. 17685 of 2024

Calcutta Pinjrapole Society & Anr.
Vs.
The State of West Bengal & Ors.

*Mr. Subhankar Nag,
Ms. Mahima Cholera,
Ms. Yamini Mookherjee,*

...for the Petitioners.

*Mr. Chandi Charan De,
Mr. Soumitra Bahdyopadhyay,
Mr. Priyabrata Batabyal,
Mr. Anirban Sarkar*

...for the State.

1. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities commanding them for removal of the encroachments and/or signboards from the properties belonging to the writ petitioners situate at 65, Jalamath, Mirpara Road, Liluah and at 58, Netaji Subhas Road, Liluah, Horah – 711204 along with other ancillary reliefs.
2. In course of hearing, learned advocate for the writ petitioners at the very outset draws attention of this Court to page no.33 of the instant writ petition being a copy of notice dated 30.10.2000 as issued by the Revenue Officer under Section 14T of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 'said Act of 1955' in short). It is submitted that by issuing the said notice under Section 14T of the said Act of 1955, the said Revenue Officer asked the writ petitioners to appear before him and to show cause as to why he shall not proceed under Section 14T of the

said Act of 1955 for taking appropriate steps for vesting of the excess land over the ceiling area.

3. On behalf of the writ petitioners attention of this Court is drawn to page nos.51 and 52 of the instant writ petition being a copy of the order dated 12.05.2023 as passed in Case No.M.A. 1240 of 2022 by the West Bengal Land Reforms and Tenancy Tribunal (hereinafter referred to as the 'said tribunal' in short) wherein the legality, validity and correctness of the said notice dated 30.10.2000 was challenged at the instance of the writ petitioners and wherein the said tribunal after considering the entire materials as placed before it, passed an order of injunction directing the parties to the said case to maintain complete 'status quo' as it stood on the said day in respect of the property in question as involved in the said proceeding.
4. At this juncture, learned advocate for the writ petitioners draws attention of this Court to page nos.63 to 63C of the instant writ petition being various photographs as taken on behalf of the writ petitioners. It is submitted that from the said photographs, it would reveal that in utter violation of the said order dated 12.05.2023 as passed by the said tribunal in the aforementioned case, the respondent authorities have most illegally put some flex and/or signboards and, thus, made an attempt to encroach the property which is the subject matter of the said notice under Section 14T of the said Act of 1955 and which is under

challenge in the aforementioned case before the said tribunal.

5. It is, thus, submitted that on account of such illegal act on the part of the respondent authorities, appropriate relief/reliefs may be granted to the writ petitioners in accordance with the prayers made in the instant writ petition.
6. Per contra, Mr. De, learned Additional Government Pleader appearing on behalf of the respondent/State submits before this Court that this High Court sitting in a single Bench cannot entertain such writ petition in terms of the provisions of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (hereinafter referred to as the 'said Act of 1997' in short). It is further submitted by Mr. De that under the provisions of the said Act of 1997 an action of the tribunal can be challenged by filing a writ petition before a Division Bench of this High Court under Section 11 of the said Act of 1997.
7. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given its anxious consideration over the submission of the learned advocates for the contending parties.
8. On careful consideration of the entire materials, it appear to this Court that it is the grievance of the writ petitioners that the respondent authorities have flouted the order of the tribunal as passed on 12.05.2023 by putting some banners and/or signboards and/or flex on the properties of the writ

petitioners which is the subject matter of the said notice under Section 14T of the said Act of 1955 and which is also a subject matter of Case No.M.A.1240 of 2022 as pending before the said tribunal.

9. At this juncture, this Court proposes to look to some of the provisions of the said Act of 1997. Section 13 of the said Act of 1997 reads as under :-

“13. Execution of order passed by Tribunal.- *An interim order in, and an order finally disposing of, any matter or proceeding by the Tribunal, including an order as to costs, may be executed in such manner as may be prescribed.”*

10. Section 14 of the said Act of 1997 is quoted hereinbelow in verbatim:-

“14. Proceedings to be deemed to be judicial proceedings.- *All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.”*

11. Section 15 of the said Act of 1997 is quoted hereinbelow in verbatim:-

“15. Power to punish for contempt of Tribunal.- *The Tribunal shall have and shall exercise, the same jurisdiction, power and authority in respect of contempt of the Tribunal as a High Court has and may exercise, and, for this purpose, the provisions of the Contempt of Courts Act, 1971 shall have effect, subject to the modification that –*
(a) the reference therein to a High Court shall be construed as a reference to the Tribunal, and

(b) the reference therein to the Advocate-General in section 15 of the said Act shall be construed as a reference to the Advocate-General of the State.

12. On careful perusal of the aforementioned legislative provisions it reveals to this Court that while enacting Section 13 of the said Act of 1997, the legislatures on their own wisdom had empowered the tribunal to execute its own order whether it is interim or final. It further appears to this Court that a proceeding before the said tribunal is deemed to be a judicial proceeding and Section 15 of the said Act of 1997 clearly empowers the said tribunal to initiate contempt proceeding as per the provisions of the Contempt of Courts Act, 1971, in the event the said tribunal finds that its order, either interim or final has been disobeyed.
13. Coming to the factual aspects of this case, this Court finds that the instant writ petitioners practically approach this Court for violation of the order of the tribunal as passed on 12.05.2023.
14. The question now fell for consideration before this Court as to whether this Court will entertain the instant writ petition despite availability of the alternative statutory efficacious remedy.
15. A similar question was considered by the Hon'ble Apex Court in the reported decision of ***U.P. State Spinning Company Limited versus R.S.***

Pandey & Anr. reported in **(2005) 8 SCC 264**,

wherein the Hon'ble Apex Court held as follows:-

“11.....Despite the existence of an alternative remedy it is within the jurisdiction or discretion of the High Court to grant relief under Article 226 of the Constitution. At the same time, it cannot be lost sight of that though the matter relating to an alternative remedy has nothing to do with the jurisdiction of the case, normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approaches the High Court without availing the alternative remedy provided, the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extraordinary jurisdiction.”

16.There are two well-recognised exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is ultra vires, it is open to a party aggrieved thereby to move the High Court for quashing the proceedings on the ground that they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has no application when the impugned order has been made in violation of the principles of natural justice. We may add that where the proceedings themselves are an abuse of process of law the High Court in an appropriate case can entertain a writ petition.”

16. Keeping in mind the proposition of law as decided in the case of *U.P. State Spinning Company Limited*

(*supra*), if I look to the facts and circumstances of the instant case, it does not appear to this Court that the writ petitioners before this Court has been able to make out a case, even a *prima facie* case for invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India despite availability of adequate efficacious alternative statutory remedy.

17. It further appears to this Court that no case has been made out on the part of the respondent authorities that either the principles of natural justice has not been followed or in the meantime any of the provisions of the said Act of 1997 has been declared *ultra vires* for which the jurisdiction of the said tribunal has become nugatory.
18. In view of such, this Court, thus, holds that for not availing any alternative efficacious statutory remedy and on account of failure on the part of the writ petitioners to make out a strong case for invoking extraordinary and plenary jurisdiction of this Court, this Court considers that the instant writ petition cannot be held to be maintainable.
19. With the aforementioned observations WPA 17685 of 2024 is dismissed.
20. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Partha Sarathi Sen, J.)