

AD-05
Ct No.10
06.08.2025
TN

WPLRT 117 of 2025

Osman Sarkar and another
Vs.
The State of West Bengal and others

Mr. Sudeep Sanyal, Ld. Sr. Adv.,
Mr. Sukanta Das,
Mrs. Tutun Das,
Mr. Chandrachur Lahiri,
Ms. Kataki Ghosh

....for the petitioners

Mr. Supratim Dhar, Ld. Sr. Adv.,
Mr. Santimay Bhattacharyya

....for the State

Mr. Bhagbat Chaudhuri,
Ms. Gopa Mainan

....for the private respondents

1. Heard learned counsel for the parties. In view of the short conspectus of the present challenge, the main application is taken up for hearing.
2. Learned senior counsel for the petitioners argues that one Mangal Bhangi, claiming to be a *bargadar* in respect of the disputed property, purchased the property by registered deeds on December 29, 1997 and sold those to the present petitioners by different deeds on the very next date, that is, on December 30, 1997.
3. In 2008, the said Mangal Bhangi made an application before the concerned authority for restoration of possession on the allegation that he was a *bargadar*.

4. Learned senior counsel for the petitioners submits that although such claim could not have been maintained, in view of the *bargadar* having lost such status upon purchase of the property and sale of the property in favour of the petitioners, the said application was allowed, thereby directing restoration of possession to the said Mangal Bhangi. Such order was challenged in an appeal, where the petitioners failed.
5. Against the order of the appellate authority, a challenge was preferred before the tribunal. The tribunal, by an order dated December 21, 2010, granted status quo in respect of the disputed property. Subsequently, in view of the pendency of a civil suit which had been filed in the meantime by the present petitioners with regard to the self-same property, the matter was adjourned by the tribunal. Thereafter, on April 02, 2012, in purported execution of the order of the B.L. & L.R.O, whereby restoration of possession was directed in favour of the *bargadar*, the petitioners were dispossessed.
6. Learned senior counsel submits that there did not arise any question of execution in view of the status quo order staring at the face of the parties on the relevant date. Learned counsel places reliance on a subsequent B.L. & L.R.O report to substantiate his contention that in purported execution of the said order in favour of the *bargardar*, namely Mangal

Bhangi, possession was handed over in favour of the said Mangal Bhangi.

7. Thereafter, the petitioners took out two applications, one for contempt of the tribunal's order of status quo by dispossession of the petitioners, being numbered MA 490 of 2012, and another for restoration of possession, which was taken unlawfully in the teeth of the status quo order, giving rise to MA No. 491 of 2012.
8. During pendency of the applications, the said Mangal Bhangi met his demise and his legal heirs, the private respondents herein, stepped into his shoes. On the ground of demise of Mangal Bhangi, MA 490 of 2012 was dismissed by the tribunal by the impugned order on the ground that contempt was a personal cause of action and did not survive on the demise of the alleged contemnor.
9. However, in the same breath, the tribunal rejected the application of the petitioners for restoration of possession on the peculiar premise that the handing over of possession to the so-called *bargadar* was quite in consonance with the relief sought in the original application which was affirmed by the appellate authority, thereby totally overlooking the status quo order passed by the tribunal itself.
10. Learned counsel appearing for the private respondents opposes the application and submits that there were certain defects in the sale deeds purportedly executed

by Mangal Bhangi in favour of the petitioners. It is further submitted that the purchase deeds of Mangal Bhangi were also defective.

11. However, upon hearing learned counsel for the parties, we are of the clear opinion that the veracity or legality/validity of the purchase deeds is not at all the subject-matter of consideration in the present challenge. The sole factum which is required to be gone into is whether the petitioners were dispossessed in the teeth of the subsisting status quo order of the tribunal dated December 21, 2010 and in violation thereof.
12. It is clearly substantiated by the B.L. & L.R.O report annexed at page-149 of the present application that indeed, the petitioners were dispossessed on April 02, 2012 in purported execution of the order of the first authority, as affirmed by the appellate authority, for restoration of possession to the purported *bargardar*, namely Mangal Bhangi. However, as on that date, the status quo order dated December 21, 2010 was clearly subsisting and, as such, the parties were bound by the same and the said Mangal Bhangi could not take advantage of the restoration order, which was in challenge before the tribunal, in view of the status quo order restraining both the parties from altering the status quo as regards possession. Thus, it was a clear case of contempt. However, since Mangal Bhangi met his demise in the meantime, we do not find any fault

in the tribunal having rejected MA 490 of 2012, the contempt application, since no personal cause of action for contempt survived on the death of the alleged contemnor.

13. Bet that as it may, the learned tribunal acted palpably without jurisdiction and in a perverse manner in overlooking its own status quo order, which was referred to in the earlier part of the impugned judgment itself, by relying on the order of the first authority as well as the appellate authority in the original application for restoration of possession to Mangal Bhangi, which was in hibernation by virtue of the status quo order at the relevant juncture. Thus, the dispossession of the petitioners, purportedly in execution of the order of restoration, being patently violative of the status quo order, was palpably illegal and ought to have been purged by restoring possession to the petitioners.
14. Accordingly, we are of the opinion that the learned tribunal erred in law and without jurisdiction in dismissing MA 491 of 2012.
15. Hence, WPLRT 117 of 2025 is allowed in part, thereby setting aside the portion of the impugned judgment and order dated April 09, 2025 passed by the West Bengal Land Reforms and Tenancy Tribunal in OA No. 2955 of 2010 (LRTT) whereby MA 491 of 2012 was dismissed. We hereby allow the said application, being MA 491 of 2012, and direct possession of the disputed

property to be immediately restored to the petitioners. The tribunal shall pass necessary directions of police help in favour of the petitioners for restoring such possession at the earliest, as and when so approached by the petitioners.

16. The parties, tribunal and all concerned shall act on the server copy of this order, without insisting upon prior production of a certified copy thereof, for the purpose of compliance.
17. There will be no order as to costs.
18. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)