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13.01.2025
Ct. No. 11
Jayanta

MAT 1518 of 2024
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IA No. CAN 1 of 2024
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IA No. CAN 2 of 2024

Pratima Mondal
vs.
Ranajit Mondal & Ors.

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
Mr. Anirban Saha Roy
....For the Appellant.

Mr. R. Nath
....For the Respondent nos. 1 & 2.

IA No. CAN 1 of 2024
[Leave to prefer an Appeal]

This application has been preferred seeking leave to prefer an appeal against the order dated 15th July, 2024, passed in WPA 14344 of 2024.

Mr. Bhattacharya, learned advocate for the applicant, submits that the petitioner has invoked the extraordinary jurisdiction of this Court by filing a writ petition to challenge the inaction of the Block Land and Land Reforms Officer in considering and disposing of Misc. Case No. 186 of 2017, as directed by the appellate authority. However, the writ petition was filed without impleading the present applicant as a party, despite the fact that the petitioner has an interest in the subject lands.

He submits that the order passed in the writ petition has serious civil consequences for the applicant's rights, and as such, the petitioner seeks leave to file this appeal.

Although the order under challenge indicates that the applicant was given an opportunity to be heard, the applicant was not made a party to the writ petition.

Considering that any order passed in a proceeding arising from the dispute between the applicant and the writ petitioners/respondents nos. 1 and 2 relating to the alteration of entries in the record of rights may significantly impact the applicant's rights, we are inclined to grant the appellant leave to prefer this appeal. Accordingly, this application, being CAN 1 of 2024, is allowed.

The appeal being MAT 1518 of 2024 is admitted.

MAT 1518 of 2024

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IA No. CAN 2 of 2024 [Stay]

Mr. Bhattacharya contends that the subject lands belonged to the applicant/appellant and her name was recorded in L.R.R-O-R. Suddenly, the writ petitioners/respondent nos. 1 and 2 herein started claiming that the lands were gifted to them by dint of several deeds and even, they instituted a civil suit against the applicant/appellant, which was decreed ex parte and the petitioner has filed an application for setting aside the ex parte decree. That application is still pending for final adjudication.

Meanwhile, the writ petitioners/respondents nos. 1 and 2 filed an application for the recording of their names in the Land Records (L.R. R-O-R) by deleting the appellant's name. Based on this application, Misc. Case No. 186 of 2017 was

initiated, but the same was disposed of, granting liberty to the writ petitioners/respondents nos. 1 and 2 to approach the appellate authority. The order passed in Misc. Case No. 186 of 2017 was challenged by the writ petitioners/respondents nos. 1 and 2 in a statutory appeal, which was allowed by an order dated 13th November, 2022. The matter was remanded, with directions to dispose of Misc. Case No. 186 of 2017 after affording an opportunity of hearing to all interested parties and passing a reasoned order.

Subsequently, citing the inaction on the part of the Block Land and Land Reforms Officer (B.L. & L.R.O.) in disposing of Misc. Case No. 186 of 2017 in accordance with the order of the appellate authority, the writ petitioners/respondents nos. 1 and 2 filed the writ petition, being WPA 14344 of 2024.

Mr. Bhattacharya submits that, in view of Section 8 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (in short, the Act of 1997) and the proposition laid down in the case of *N. Chandrakumar*, reported in *1997 (3) SCC 261*, it is not open for any litigant to directly approach the High Court, bypassing the jurisdiction of the learned Tribunal. He further submits that, although the order under challenge may appear to be innocuous, it strikes at the root of the inherent jurisdiction of this Court. The writ Court, according to him, lacks the inherent jurisdiction to entertain such a writ petition, and as such, the order passed in the writ petition is liable to be set aside. To support his argument, he relies on two decisions, reported at *(2016) 4 CHN 127 (Bidyapati Pal vs. State of West Bengal)* and *AIR 1962 SC 199 (Hira Lal Patni vs. Sri Kali Nath)*.

Mr. Nath, learned advocate appearing on behalf of the writ petitioners/respondents nos. 1 and 2, leaves the matter to the discretion of this Court.

The record reveals that by the order under appeal, the writ petition was disposed of directing the concerned Block Land and Land Reforms Officer to expeditiously dispose of Misc. Case No. 186 of 2017, after issuing notice to the present appellant, in accordance with law, within a specified time frame.

Admittedly, the writ petition was preferred challenging inaction on the part of the B.L. & L.R.O in disposing of the Misc. Case no. 186 of 2017 in terms of the order passed by the appellate authority. The Misc. Case was filed under section 50 of the West Bengal Land Reforms Act, 1955 (in short, the Act of 1955). Therefore, the dispute arises out of West Bengal Land Reforms Act which is a specified Act within the meaning of Section 2 (r) (ii) of the Act of 1997, which was enacted in pursuance of Article 323B of the Constitution of India and for the adjudication and trial by such Tribunal of disputes, claims, objections and applications relating to, or arising out of, land reforms or tenancy in land and other matters under a specified Act and for matters connected therewith or incidental thereto.

Admittedly, the inaction on the part of any authority referred to in the specified Act attracts Section 6(b) of the Act, 1997. Furthermore, Section 8 of the Act, 1997 expressly excludes the writ jurisdiction of the Single Bench of this Court from entertaining any dispute arising out of Land Reforms or any matter that falls under the specified Act.

Therefore, although the order under challenge in this appeal may appear to be innocuous and was passed to serve the ends of justice, since the Single Bench lacks the inherent jurisdiction to entertain such a writ petition, the order passed in the writ petition, which is impugned in this appeal, cannot stand and is accordingly set aside.

The appeal and its connected application are, thus, disposed of.

However, this order shall not preclude the writ petitioners/respondents nos. 1 and 2 from taking appropriate steps before the appropriate forum in accordance with law.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)