

30.01.2025
Item No.3
PG/KS
Ct. No.1

W.P.A. (P) 370 of 2021
With
IA No. CAN 2 of 2022
+
CAN 3 of 2022
+
CAN 4 of 2022
+
CAN 5 of 2024
Narayan Manna & Ors.
Versus
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Sutirtha Nayak
Ms. Sinjini Chakrabarti
Mr. Baibhav Roy
.....For the Petitioners
Mr. Jahar Lal De, Ld. A.G.P.
Mr. Shamim Ul Bari

.....For the State
Mr. Sabyasachi Chatterjee
Mr. Pintu Karar
Mr. Sayan Banerjee
Ms. Suparna Dutta

.....For the Private Respondents

1. This public interest writ petition has highlighted a very serious issue, which appears to be quite common in the State of West Bengal i.e. agricultural lands are being taken over by certain private parties for the purpose of doing pisciculture activities.
2. This writ petition has been pending since 2021 and various orders have been passed from time to time. The Court also took note of the allegation that unauthorizedly pipelines are laid and seawater has been pumped through the pipelines so as to make the land fit for pisciculture. Therefore, a direction was issued to conduct a surprise inspection and it is submitted by the learned counsel for the State that there

is no existence of any pipeline for the purpose of drawal of sea water.

3. Be that as it may, the Court on 12th September, 2024 took note of the submissions of either side and also the report filed by the Fisheries Extension Officer as well as the report of the Assistant Director of Agriculture and the following direction was issued:-

“5. As could be seen from the report that fishery related activities are going there in the land in question. The question would be as to whether such activity is authorized as the petitioners’ case is that the lands are agricultural land and have been unauthorizedly converted for pisciculture. Notices under Section 4C of the West Bengal Land Reforms Act have already been sent to more than 1055 persons and a reasonable time has been granted by the authorities to reply, failing which appropriate action will be taken in accordance with law. However, before that we direct the private respondents herein to submit their reply to the notice within ten days from the date of receipt of the server copy of this order, failing which the authorities are entitled to proceed ex parte and pass orders. A copy of this order shall also be communicated to the other noticees for informing them about filing their reply. Further report be filed by the appropriate authority as regards the progress of the matter.”

4. Learned advocate appearing for the private respondents, who have said to be forcibly taken over the land on 12th September, 2024 had raised an issue with regard to the maintainability of this writ petition on the ground that the prayer sought for in the writ petition is, in effect, a prayer for recovery of possession of the lands owned by the petitioners.

5. Pursuant to the directions issued on 12th September, 2024 it appears that about 129 persons have submitted their reply to the notices issued under Section 4(C) of the West Bengal Land Reforms Act, 1955 (for brevity, “the 1955 Act”). On the last date, it was reported that notices have been issued to 1055 persons and it was made clear in the order dated 12th September, 2024 that if the private respondents or the noticees do not submit their reply within the time permitted, the authority concerned is entitled to proceed *ex parte*. The said observations and/or directions shall continue, as such and the authority should proceed with the matter and take the matter to the logical end in accordance with the procedure stipulated under the 1955 Act.
6. The Additional District Magistrate and District Land & Land Reforms Officer, Paschim Medinipur has given written instructions to the learned State advocate by communication dated 26th November, 2024. In the said communication, the gist of the contentions of the private respondents, as culled out from their reply submitted in response to the notices issued under Section 4 (C) have been mentioned.
7. A perusal of the said gist of their reply shows that the private respondents seek to justify their continued possession of the property on the ground that the lands are low lying and submerged for more than seven to eight months throughout the year and they have started pisciculture activities in the suit lands as an alternate means of occupation.
8. The gist of the reply would clearly show that there is no existing right, title or interest of the private respondents over the lands in question and merely because the lands are low

lying or submerged with water would not qualify a third party to convert the properties into the properties where pisciculture activities are to be done.

9. Whether the private respondents forcibly entered into the property or whether they have entered into an arrangement with the land owners for agricultural operations and thereafter switched over to doing pisciculture are all issues, which will be adjudicated by the authority concerned, who has already initiated action under Section 4(C) of the 1955 Act.
10. Therefore, we dispose of this writ petition by directing the concerned authority to proceed further pursuant to the notices issued taking note of the replies given by the 129 persons or such other persons, who may have submitted their replies and follow the procedures under the Act and pass appropriate orders on merits and in accordance with law.
11. As observed in the order dated 12th September, 2024 against such of those persons, who have not submitted their replies to the notices issued under Section 4(C), the authority is entitled to proceed *ex parte* by following the appropriate procedure under the 1955 Act. Since there are several persons, if the authority decides to afford an opportunity of personal hearing, one or two persons from the private respondents can be permitted to represent all of them since the reply given by the noticees are identical. Further the communication given to the learned State advocate dated 26th November, 2024 shows that one, Suparna Dutta, learned advocate had represented on behalf of the Susama

Samai and other 478 respondents have submitted their replies on different dates of August, 2024.

12. Therefore, it is clear that the private respondents are represented by a learned advocate and the apprehension of Mr. Chatterjee that there will be infringement of the rights of the private respondents does not merit acceptance.
13. As noted above, learned advocate appearing for the private respondents raises the issue of maintainability of this writ petition as a public interest litigation and in support of his contention places reliance on the decision of the Hon'ble Supreme Court in ***Kushum Lata Vs. Union of India & Ors.*** reported in ***(2006) 6 SCC 180***.
14. As pointed out by the learned Senior Advocate appearing for the petitioners, those very issue was canvassed before the Hon'ble Division Bench when the matter was heard on 8th March, 2022 and the said contention was rejected and the Hon'ble Division Bench has clearly recorded that they are of the opinion that it would not be proper to dismiss the writ petition on the ground of maintainability.
15. That apart, we find that in the replies submitted by the private respondents before the authority in response to the notices issued under Section 4(C) of the 1955 Act, there is no document produced by the private respondents to show their right, title over the properties in question.
16. In any event, the larger question as to whether an agricultural land can *suo moto* be converted into a land for pisciculture purpose will be decided by the authority under the provisions of the West Bengal Land Reforms Act, 1955.

17. With regard to the decision of the Hon'ble Supreme Court in the case of ***Kushum Lata (supra)***, the Hon'ble Supreme Court was dealing with the matter where a petition was filed styled as a public interest litigation though it relates to a tender, where the petitioner herself claims to be a tenderer. Therefore, the writ petition was dismissed. The fact of the present case is entirely different and the decision in ***Kushum Lata (supra)*** can be of no assistance to the case of the private respondents.
18. Therefore, we have no hesitation to hold that the writ petition is maintainable.
19. The authority concerned viz. the concerned Block Land & Land Reforms Officer is directed to proceed further with utmost earnestness and ensure that the proceedings should not be unduly delayed. Any unreasonable request for adjournment should be refused and the matter should be dealt with on a day to day basis.
20. We refrain from fixing any time limit since the authority is required to adhere to the procedure stipulated under the provisions of the 1955 Act and the Rules framed thereunder.
21. No costs.
22. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)