

21.01.2025
Item No.49
Court No.11
Avijit Mitra

WPLRT 116 of 2023

In re: An application under Article 226 of the Constitution of India;
And

Mongal Kumar Purkait & ors.
- versus -
State of West Bengal & ors.

Mr. Kallol Bose,
Mr. Srikanta Paul,
Mr. Nilanjan Paul
... for the petitioners
Mr. Somnath Ganguli, Ld. A.G.P.,
Mr. Balarko Sen
...for the State respondents
Mr. Srinjoy Sengupta,
Mr. Susenjit Banik,
Mr. Sourav Roy,
Mr. Rajib Acharyya
....for the private respondent 1 to 12 & 15

Questioning the justifiability of the order dated 2nd May 2023, passed by the learned Tribunal in Original Application (in short, OA) being OA 1280 of 2020, the present writ petition has been filed. By that order, the learned Tribunal refused to entertain the applicant's prayer for a directive to the Block Land and Land Reforms Officer to consider the representation submitted by the applicant on 30th July 2020.

Before addressing the contentious issue involved in the present appeal, it would be prudent to outline the essential facts that led to the filing of the writ petition.

The petitioners, legal heirs of late Dhirendra Nath Purkait and sons of late Sailendra Nath Purkait, claim that the lands in question were recorded in the name of their ancestor, Jagabondhu Purkait, in the C.S. record of rights. During the RS operation, the land was recorded in the name of late Dhirendra Nath Purkait as Dakhalikar, who was the father of Sailendra Nath Purkait, the petitioners' father. The petitioners contend that Jagabondhu Purkait bequeathed the land to his four grandsons, including Sailendra Nath Purkait, and that the probate was granted by a competent court of law. However, despite this, none of the land or any portion thereof has been recorded in the names of the petitioners or the other legal heirs of Sailendra Nath Purkait. Instead, the entire land has been erroneously recorded in the names of other co-sharers in the L.R. record of rights.

Given the circumstances, petitioner No. 1 submitted an application on 30th July 2020. However, despite acknowledging receipt, no action was taken on it. As such, the petitioners were compelled to file the OA, which was dismissed by the order under challenge in this writ petition.

Mr. Bose, learned counsel for the petitioners, argues that the learned court below incorrectly concluded that the petitioners sought a correction of the RS record of rights. Referring to the representation dated 30.07.2020, he clarifies that the petitioners only sought correction of erroneous entries in the LR record of rights. He contends that the Tribunal rejected the petitioners'

plea on the ground that the other legal heirs of late Sailendra Nath Purkait were not named in the representation. Mr. Bose asserts that the B.L. & L.R.O. should consider the representation after providing an opportunity for all interested parties to be heard.

Mr. Bose acknowledges that a partition suit is pending between the co-sharers, but he contends that no interim order has been passed to restrain the B.L. & L.R.O. from considering the petitioner's representation. He argues that the pendency of the suit cannot stand in the way of the B.L. & L.R.O. acting on the representation. According to him, if a direction is given to the B.L. & L.R.O. to consider the representation, it would not prejudice either party.

In response, Mr. Sengupta, learned advocate for the private respondents, submits that a partition suit is pending between the parties, wherein a question of title is involved. In his view, unless the issue of title is resolved by a competent court, it would not be appropriate to direct the Block Land and Land Reforms Officer to consider the petitioners' representation.

Mr. Ganguli, learned Additional Government Pleader enters appearance on behalf of the State respondents.

Upon close scrutiny of the representation submitted by the petitioners, it appears that certain L.R. plot numbers were mentioned, indicating that the petitioners sought a correction of the L.R. record of rights. Consequently, the petitioners made a

prayer for the correction of the L.R. R-O-R under the provisions of Section 50 of the West Bengal Land Reforms Act, 1955, for which no time limit has been prescribed for making a prayer before the B.L. & L.R.O. Therefore, the conclusion arrived at by learned Tribunal that the petitioner's representation or prayer was for the correction of the R.S. R-O-R is time-barred, is not acceptable to us.

Admittedly, a partition suit is pending between the petitioners and the other legal heirs on one side, and the co-sharers of the lands in question on the other. The interim order dated 20.08.2022, passed in the partition suit (T.S. No. 51 of 2021), indicates that the defendants Nos. 1 to 4, 9, and 10 were restrained from alienating the suit properties to strangers. Additionally, these defendants were directed to maintain status quo regarding their physical possession of the suit properties until the next date of hearing.

It is important to note that the State, or any of its functionaries, including the B.L. & L.R.O., was not a party to the partition suit. Therefore, the interim order passed in that suit, which is binding inter partes, does not bind the B.L. & L.R.O. Consequently, there should be no impediment for the B.L. & L.R.O. in considering the petitioners' representation. Moreso when, recording of names in the record of rights does not confer any title. However, as previously noted, the order under challenge in this writ petition reveals that the learned Tribunal declined to

direct the B.L. & L.R.O. to consider the representation, primarily on the ground that the other legal heirs of late Sailendra Nath Purkait were not included in the representation.

In light of the above, having heard the submissions of the respective parties and after considering the facts and circumstances of this case, we are inclined to set aside the order under challenge in this writ petition. The writ petition is disposed of, granting liberty to the petitioners to file a fresh representation within 15 days from the date of this order, incorporating the names of all legal heirs of late Sailendra Nath Purkait and other persons interested in the lands. Upon receipt of such a representation, the Block Land and Land Reforms Officer shall consider and dispose it of by passing a reasoned order, after affording an opportunity for hearing to all interested parties.

It is made clear that we have not delved into the merits of the case, and the observations made hereinabove are solely for the purpose of disposing of the present writ petition and all points are kept open to be decided by the B.L. & L.R.O.

With the above observations and directions, the writ petition is disposed of.

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

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

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