

04
31.01.2025
Ct. No. 11
Jayanta

WPLRT 146 of 2024
Khaga Mohan Das
vs.
State of West Bengal & Ors.

Mr. Sankar Prasad Dalapati
Mr. Sujit Bhunia

....For the Petitioner.

Sk. Md. Galib, Ld. Sr. Govt. Adv.
Mr. Abu Siddique Mallik

....For the State.

1. In this writ petition the writ petitioner has prayed for issuance of appropriate writ for quashing of the judgment and order dated 6th December, 2007 as passed in OA No. 1223 of 2006 (LRTT) by the West Bengal Land Reforms and Tenancy Tribunal (hereinafter referred to as the said 'Tribunal' in short).
2. By the said judgment the said Tribunal while dismissing the OA. No. 1223 of 2006 upheld the order and judgment as passed by the appellate authority on 3rd January, 2006 in Appeal Case No. 30 of 2002 as filed under Section 54 of the Land Reforms Act, 1955 hereinafter referred to as the said Act of 1955 (in short).
3. In course of his submission Mr. Dalapali, learned advocate appearing on behalf of the writ petitioner at the very outset draws our

attention to the order dated 3rd January, 2006 as passed by the said appellate authority. Attention of ours is also drawn to the impugned order.

4. It is submitted by Mr. Dalapati that though before the appellate authority it was the specific case of the writ petitioner that the writ petitioner got no opportunity to represent his case before the revenue officer, the appellate authority did not consider such contention of the writ petitioner and in a mechanical manner proceeded to dispose of the said appeal without giving any adherence to the predicament of the writ petitioner as raised in course of hearing of the said appeal.
5. In his next fold of submission Mr. Dalapati further submitted that the said Tribunal while passing the impugned order has failed to consider that the order of vesting as passed by the revenue officer and as affirmed by the appellate authority is not justified, since the writ petitioner's land is within the ceiling limit and, therefore, the vesting order as passed by the revenue officer and as affirmed by the appellate authority is not justified.

6. It is further submitted by Mr. Dalapati that admittedly there occurred a long delay in preferring the instant writ petition, however, in paragraph 14 of the instant writ petition the writ petitioner has categorically explained as to why such delay occurred.
7. It is, thus, submitted by Mr. Dalapati that considering the advanced age of the writ petitioner and also considering the fact that the writ petitioner resides in a remote village wherefrom he could not establish contact with his learned advocate on account of his prolonged illness as has been disclosed in paragraph 14 of the writ petition the prayer as made in the writ petition may be considered favourably.
8. In support of his contention Mr. Dalapati places his reliance upon a reported decision of the Hon'ble Apex Court in ***Ramchandra Shankar Deodhar -vs.- The State of Maharashtra & Ors.***, reported in, ***(1974) 1 SCC 317***.
9. It is, thus, submitted by Mr. Dalapati, that considering the propositions of law as decided in the case of ***Ramchandra (supra)*** the instant writ petition may not be considered as a stale claim since in the

meantime no third party interest has been created in respect of the vested land and the writ petitioners is still in possession of the said vested land.

10. Such prayer is, however, opposed on behalf of the State.

11. It is argued by Mr. Galib, learned senior Government advocate that the instant writ petition cannot be entertained basically on the ground of delay and laches since the relief as sought for under Article 226 of the Constitution of India is purely discretionary.

12. It is further submitted by Mr. Galib that no plausible explanation has been given by the writ petitioner as to what prevented him to approach this Court to ventilate his grievances at the earliest.

13. We have considered the rival submissions of the learned advocates for the contending parties. We have meticulously perused the entire materials placed before us. We have also considered the reported decision of ***Ramchandra (supra)*** as cited from the side of the writ petitioner.

14. It appears to us that the appellate authority disposed of the appeal as filed

under Section 54 of the said Act of 1955 on 3rd January, 2006.

15. Challenging the said order the writ petitioner approached the said Tribunal which disposed of the said original application on 6th December, 2007. Arithmetical calculation goes to show that the writ petitioner approached this Court after 17 years.

16. In our considered view, there is no plausible explanation on the part of the writ petitioner as to what prevented him to approach this Court on an earlier occasion and as to why 17 years delay has been caused in preferring the instant writ petition.

17. It is trite law that for filing a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of this writ court is invoked it has to be seen as to whether within a reasonable time same has been invoked.

18. It appears to us that exercise of writ jurisdiction by the High Court is purely discretionary in nature and it should be exercised with caution and care and it

should not be exercised in respect of a stale claim.

19. In course of his reply, Mr. Dalapati submitted that the Government authority ought not to have taken the ground of limitation to deprive its citizens from his rightful claim.

20. It appears to this Court that the writ petitioner has miserably failed to explain his 17 years of delay in approaching this Court for ventilating his grievances.

21. In further considered view of us the reported decision of ***Ramchandra (supra)*** as cited from the side of the writ petitioner is distinguishable from the facts and circumstances of the instant case since in the said reported decision the Hon'ble Apex Court on appreciation of the facts and circumstances of the said case came to a conclusion that the writ petitioner did not lose any time to file the writ petition.

22. For the reasons discussed hereinabove we, thus, find no merits in the instant writ petition.

23. The instant writ petition is devoid of merit and is, thus, dismissed.

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

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

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