

D/L16
25.11.2025
Rohit
ct.no.16

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPLRT 191 of 2025

**SasankaGhorai
Versus
State of West Bengal &Ors**

Mr. SupratimDhar, Sr. Adv
Mr. Santimay Bhattacharyya
Mr. Anirban Das

...for the Petitioner

Mr. Sk. Md. Galib, Sr. Gov. Adv
Ms. Priyamvada Singh

...for the State Respondents

1. Affidavit-of-service filed in Court today be kept with the record.
2. The present challenge has been preferred against an order passed by the West Bengal Land Reforms and Tenancy Tribunal to the extent that by the said impugned order, no injunction/stay order protecting the interest of the petitioner by restraining the respondent authorities from settling or granting patta or transferring the subject property in respect of third parties has been granted.
3. Learned Senior Counsel appearing for the petitioner submits that throughout the

pendency of the appeal from which the Tribunal application arises, there was a subsisting order of stay.

4. The matter arises from an order passed under Section 14T of the West Bengal Land Reforms Act, 1955 determining the ceiling limit for retention of land by the petitioner. It is submitted by learned Senior Counsel that the provision of Section 14N of the 1955 Act was given a go-bye by the respondent authorities inasmuch as there was no determination as to what part of the subject property was irrigable land.
5. It is contended that such a prior adjudication is mandatory before determining the ceiling area, particularly in view of the aggrieved party having a right of appeal under Section 14-O of the said Act against an adjudication made under Section 14T(9). Thus, without giving a go-bye to such provisions, the determination has been made. However, both the revenue officer as well as the appellate authority have confirmed the findings against the petitioner, prompting the challenge before the Tribunal.

6. Learned Senior Counsel takes the Court through the reliefs sought in the original application before the Tribunal by way of interim injunction as well as the order passed by the Appellate authority in that regard.
7. The learned Senior Government Advocate appearing for the State controverts the submissions of the petitioner and submits that nowhere in the grounds taken in the appeal preferred before the Appellate authority was the present argument of the petitioner taken.
8. Learned Senior Government Advocate seeks to take the Court through the appeal filed before the Appellate authority in support of such contention.
9. Secondly, it is argued that under Section 10(7) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, no interim order shall be made in any proceeding unless copies of the application and all documents in support of the plea for such interim order are duly furnished seven days in advance to each of the parties against whom such application is made or is proposed to be made. Moreover, an opportunity of being heard is to be given

to each of the parties against whom such application is made.

10. In the present case, it is submitted that there is absolutely no averment in support of the prayer for injunction in the original application filed before the Tribunal and, as such, the learned Tribunal was justified in not granting any ad interim protection to the petitioner.

11. Upon hearing learned Counsel for the parties, we find from the proviso to Section 10(7)(b) of the 1997 Act that the Tribunal may pass an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being immediately caused to the applicant.

12. Thus, the bar under Sub-section (7) of Section 10 to grant of interim order under the parameters stipulated therein is not absolute and discretion is vested with the Tribunal to ascertain whether under exceptional conditions, an interim order is to be granted.

13. Although the learned Senior Government Advocate is justified in arguing that in clear terms, no averment has been made that the

property is being attempted to be transferred, we find it equally justified that an order ought to have been granted, since throughout the pendency of the appeal, against the order passed in which the Tribunal application has been preferred, there was an interim protection granted to the petitioner.

14. In view of such interim order having always been enjoyed throughout the pendency of the appeal by the petitioner, by default, there ought to have been similar protection granted by the Tribunal in order to prevent the Tribunal application from being rendered infructuous.

15. By virtue of the interim prayer being sought in the original application itself, it is implicit that the conditions for such grant of interim order were pleaded, if not expressly, in an implied manner.

16. As regards the argument of the State that the specific ground regarding Section 14N having not been complied with being not taken before the Tribunal, we find from the very first ground in the memorandum of appeal that, although not very happily couched, the said ground broadly covers such

objection. The said ground mentions that the BL&LRO erred in law in determining all the lands as irrigated lands and as such the whole determination is void ab initio because as per record of rights all the lands of the petitioner are not irrigated lands and as such the petitioner is entitled to retain more lands as prescribed under the 1955 Act.

17. If read as a whole in proper context, the said ground would be sufficient to provide the foundational basis of an argument being made on the ground of non-compliance of Section 14N prior to determination under Section 14T of the 1955 Act.

18. Even otherwise, the grounds of an appeal before the Appellate authority under the 1955 Act as mentioned in the memorandum of appeal are not set in stone, confining the Appellate authority to only those grounds, and can very well be deviated from at the time of arguments. The question which is to be ascertained by the Appellate authority is whether ample grounds have been made out by the challenger against the order passed by the revenue officer and not whether such grounds have been specifically pleaded in the

appeal. In fact, such pleading is not mandatory in law at all.

19. In any event, since the foundational basis of such pleading is there in the appeal, we find such argument of the State to be unacceptable.

20. Even otherwise, the learned Tribunal, while passing the impugned order, did not refuse ad interim injunction on the ground of non-compliance of Clause (a) of Sub-section (7) of Section 10 of the 1997 Act or Clause (b) thereof. The premise of the impugned order was that the applicant had failed to produce a single scrap of paper which goes to indicate that there is an overt act on the part of the statutory authority for the purpose of settlement of vested land by granting pattas and that it is too difficult to issue any order on the basis of mere apprehension or conjecture.

21. We find both grounds to be not tenable in the eye of law. Insofar as the first ground is concerned, it is not expected and it might very well be that the petitioner is not equipped with any specific document indicating the intention of the State to

transfer the property or settle the same by way of grant of pattas in favour of third parties. Such act is implicit from the circumstances of the case, since both the authorities have turned down the plea of the petitioner and during pendency of the appeal, an order had been granted by the Appellate Authority for protecting the petitioner from such transfer which, by necessary implication, indicates that the Appellate authority was satisfied as to the necessity of passing such order. Thus, with the disposal of the appeal, when the said protective order was taken away, the Tribunal proceeding being a continuation of the appeal, there could not be any reason why a similar apprehension could be taken into consideration by the Tribunal.

22. In so far as the perception of the Tribunal that an injunction order, if passed, would be on the basis of mere apprehension or conjecture, it is the very premise of a prayer for injunction that there is a reasonable apprehension on the part of the petitioner that the property in question may be transferred in favour of third parties. In the

event the act apprehended is already done, there would not be any reason or scope to grant any injunction any further. Thus, it is at the stage of reasonable apprehension when injunction is to be granted, which is always on the basis of some amount of apprehension, although not baseless conjecture. Thus, we are of the opinion that, particularly since an interim order was prevalent during the pendency of the appeal, the learned Tribunal ought to have granted an injunction as prayed for by the petitioner.

23. In such view of the matter, WPLRT 1991 of 2025 is allowed on contest, thereby setting aside the impugned order dated September 11, 2025 passed by the 4th Bench, West Bengal Land Reforms and Tenancy Tribunal in O.A. 1170 of 2023 (LRTT) and restraining the respondents by an order of injunction from giving any effect to the orders impugned before the Tribunal, both of the Appellate authority and the revenue officer, and further restraining the respondents and their men and agents from disturbing the peaceful possession of the petitioner in respect of the subject property and/or creating any third

party interest in respect of the subject property during the pendency of the original application.

24. It is, however, made abundantly clear that this Court has not entered into the merits of the respective contentions of the parties and it will be open to the learned Tribunal to decide the original application independently of the above observations and/or the observations made in the impugned order on its own merits.

25. No order as to costs.

26. Urgent certified website copies of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)