

13.02.2025
Item No.14
RP/SM
Ct. No.01

WPA (P) 521 of 2024

**Rahul Jaiswal
VS.
State of West Bengal & Ors.**

Mr. Arif Ali
Mr. Zafirul Islam
Mr. Hebzur Rahaman
.....For Petitioner

Mr. Sirsanya Bandopadhyay, Sr. Standing Counsel
Mr. Ritesh Kumar Ganguly
.....For State

Mr. Alok Kumar Ghosh
Mr. Arijit Dey
..... For KMC

1. The petitioner by this writ petition styled as public interest litigation seeks for a direction on the Controller, Kolkata Thika Tenancy not to declare Government Khas Mahal Lands comprised in Municipal Premises No.35/1B, Canal East Road, Kolkata-700011, Ward No.29, PS- Narkeldanga (erstwhile Beliaghata PS) as Thika tenancy lands. The petitioner has not been able to mention as to who was the beneficiary of such order passed by the Thika Controller. The petitioner would state that as per the Rent Roll Register, which is annexed as Annexure P-2 to the writ petition, the property in question could not have been declared as Thika tenancy land as the State cannot become zamindar.

2. Learned senior standing counsel appearing for the State submitted that an application was filed before the Thika Controller in the year 2006 and after due adjudication an order has been passed in 2019 declaring certain properties as Thika property.
3. Learned advocate appearing for the petitioner referred to West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 and by referring to Section 15 thereof submitted that in terms of Clause (a) of Section 15 nothing in the Act shall apply to the land belonging to the State and Central Government.
4. The issue which is to be considered is whether the land is a Thika property or a Government property. After due adjudication the Thika Controller has declared it to be a Thika property. Therefore, if at all a person is stated to be aggrieved by such order, then such persons is not without remedy as the appeal provision is provided under Section 12 of the Act.
5. It is pointed out by the learned senior standing counsel for the State that in terms of Section 12 any person aggrieved by the order of the Thika Controller may prefer an appeal before the West Bengal Land Reforms and Tenancy Tribunal.
6. Until and unless the order passed by the Thika Controller is questioned in the manner known to law the question of entertaining a public interest litigation by issuing a speaking direction to the State that none of

the Khas Mahal land should be treated as Thika tenancy land is not feasible of consideration. Apart from that if the order has been passed by the Thika Controller then it goes without saying that a third party interest has accrued and in the absence of the third party, who enjoys the order passed by the Thika Controller the question of entertaining a writ petition as public interest litigation for such larger relief would not arise. Therefore, we are convinced that the relief sought for in this writ petition cannot be granted and the same is **dismissed**. However, dismissal of the writ petition will not prevent the writ petitioner to work out his remedy in accordance with law before the appropriate forum.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)