

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION**

14 28.1.2025
Sc Ct. no. 2

WPA 298 OF 2025

M/s Buxa Dooars Tea Company (India) Limited

Vs.

The State of West Bengal & Ors.

Mr. Aniruddha Mitra
Mr. Aditya Chakraborty
Mr. Debanjan Das.

....For the Petitioner

Mr. Joyjit Choudhury, AAG
Ms. Bedashruti Bose.

....For the Respondent
Nos.1 to 7

Mr. Probal Kr. Mukherjee
Mr. Debashish Mukherjee
Mr. Deborshi Dhar
Ms. Shristi Sarkar.

....For the Respondent No.8

Mr. Debajyoti Datta
Ms. Madhushri Dutta.

....For the Respondent No.9

Affidavit-of-service, filed today in Court, is taken
on record.

Mr. Aniruddha Mitra, learned Senior Advocate
appears for the petitioner.

Mr. Joyjit Choudhury, learned Additional
Advocate General with Ms. Bedashruti Bose, learned
State Advocate appears for the respondent nos.1 to 7.

Mr. Probal Mukherjee, learned Senior Advocate
appears through virtual mode for the respondent
no.8.

Mr. Debajyoti Datta, learned Senior Advocate appears for the respondent no.9. Learned advocate on record for the respondent no.9 has undertaken before this Court to file the **Vakalatnama** before the department in course of the day.

This is the second round of writ litigation concerning and touching the same tea estates. The petitioner is the lessee in respect of the said tea estates by virtue of a registered **Lease Deed** dated **July 1, 2013**. Currency of the lease is for **thirty years**. The lease has commenced on and from **January 13, 2007**. Thus, the lease shall expire in the year **2037**. The petitioner contends that, it is in control of the tea estates and running the affairs.

By virtue of a gazette notification dated **November 6, 2024** published on **November 11, 2024** along with a **Standard Operating Procedure (SOP), Annexure-P2 at page 34** to the writ petition, the State sought to induct the respondent no.8 in the management and affairs of the tea estates. Such an action was challenged by the petitioner through the previous writ petition, **WPA 2608 of 2024** when the said writ petition was **disposed of** by this Court by an order dated **December 10, 2024, Annexure-P4 at page 42** to the writ petition when this Court held that, the challenge in that writ petition would lie

before the jurisdictional Land Reforms and Tenancy Tribunal.

Accordingly, the petitioner, accepting the said order dated **December 10, 2024**, filed necessary proceeding before the jurisdictional Land Reforms and Tenancy Tribunal which was registered as **O.A. 3446 of 2024 of (LRTT)**. The jurisdictional tribunal then passed an order dated **December 19, 2024, Annexure-P5 at page 48** to the writ petition whereunder the petitioner, *inter alia*, was directed to deposit a sum of **Rs.5 Crore** within a stipulated time for the payment of the workers. The matter is fixed before the LRTT on **February 5, 2025** for further consideration.

The petitioner submits that, it has failed to deposit the said sum of **Rs.5 Crore** till now. The necessary application has been filed before the LRTT seeking extension of time in that regard.

Being aggrieved by the said order of the LRTT dated **December 19, 2024** Mr. Debajyoti Datta, learned Senior Advocate appearing for the respondent no.9 submits that, his client, the Trade Union, has preferred a writ petition before the Hon'ble Division Bench. The said writ petition was considered on **December 26, 2024, Annexure-P6 at page 56** to the writ petition and the same is pending.

Mr. Aniruddha Mitra, learned Senior Advocate appearing for the petitioner referring to the order of the Division Bench dated **December 26, 2024** submits that, the State specifically made submissions that, the tea estates have not been settled in favour of the respondent no.8 herein being the respondent no.7 therein.

Mr. Mitra then referring to several newspaper reports at **pages 58 to 60** to the writ petition read with the specific averments made in the writ petition in **paragraph 23** at **page 13** to the writ petition submits that, the private respondent no.8 has entered into the tea estates on **January 20, 2025** and sought to take control on the tea estates.

Learned Senior Advocate, Mr. Mitra further submits that, the petitioner has no knowledge or notice whatsoever as to how the private respondent no.8 has entered into the tea estates. The petitioner has no knowledge whether the respondent no.8 has entered into the tea estates by virtue of the said **SOP** or not. Immediately after this wrongful intrusion by the respondent no.8 by way of trespassing at the tea estates, the petitioner has lodged a police complaint dated **January 22, 2025** before the jurisdictional police authority, **Annexure-P8** at **page 61** to the writ petition.

In the light of the above, Mr. Mitra, learned Senior Advocate submits that, the police authority has not taken any step and there has been a clear trespass by the respondent no.8 at the tea estates and their possession, if any, is totally wrongful. Hence, this writ petition with the reliefs claimed therein.

Mr. Debajyoti Datta, learned Senior Advocate appearing for the respondent no.9, at the outset, denies and disputes the submissions of the petitioner and referring to the said Division Bench order dated **December 26, 2024** submits that, the contention of the State that, the tea estates were not settled in favour of the respondent no.8 herein, if is to be considered, then the same should be considered as on that date i.e., **December 26, 2024**.

Learned Senior Advocate Mr. Datta further submits that, the interim order passed by the LRTT was a conditional one that, upon deposit of a sum of **Rs.5 Crore** for the benefit of the workers, to pay them all, the interim order was passed and directed to be continued. Since the petitioner has not deposited the said sum till date, the interim order has lost its force. The next date fixed before the tribunal is **February 5, 2025**. The workers' dues as on date will be no less than at least **Rs.34 Crore**.

The figure of dues submitted by Mr. Datta, learned Senior Advocate has been disputed and denied by Mr. Mitra, learned Senior Advocate for the petitioner.

Mr. Probal Mukherjee, learned Senior Advocate appearing through virtual mode on behalf of the respondent no.8 submits that, in fact, there is a settlement. Copies of the necessary **Memorandum of Understanding** and/or settlement dated **December 6, 2024** in favour of his client is made over to this Court today and the same are taken on record. Copies are also served upon the learned Advocate on record for the petitioner in Court today.

Mr. Mukherjee, learned Senior Advocate submits that, on the strength of this **Memorandum of Understanding**, the respondent no.8 has been inducted in the tea estates.

Mr. Mukherjee, learned Senior Advocate appearing for the respondent no.8 has also raised the **point of maintainability** of this writ petition.

Per contra, Mr. Mitra, learned Senior Advocate in reply to Mr. Mukherjee's submission submits that, the said alleged **Memorandum of Understanding** dated **December 6, 2024** is a private arrangement between the Trade Union and the respondent no.8 and the State is not a party thereto. Therefore this

Memorandum of Understanding cannot be construed to be executed under the said gazette notification or the **SOP** and the same is merely a private arrangement.

Mr. Joyjit Choudhury, learned Additional Advocate General submits whatever arrangement has been made for settling the tea estates in favour of the respondent no.8, is under the said gazette notification and the connected **SOP**.

The common submission of the respondents is that the writ petition is not maintainable and should be dismissed.

After considering the rival contentions of the parties and upon perusal of the materials on record, at the outset, it appears to this Court that, the cause of action in this writ petition either would be in connection with the said gazette notification and the **SOP**, which is already under challenge before the jurisdictional Land Reforms and Tenancy Tribunal or the cause of action of this writ petition would be a clear and simple trespassing by the respondent no.8 at the tea estates. In both the situations, either the petitioner should have applied before the jurisdictional Land Reforms and Tenancy Tribunal for seeking necessary reliefs against the alleged intrusion of the respondent no.8 at the tea estates or before the

jurisdictional civil court alleging trespassing at the tea estates. A complaint has been lodged before the police authority about six days back. The record shows and it is also admitted by the petitioner that, no civil proceeding has been initiated before the jurisdictional civil court either alleging trespassing against the respondent no.8 neither any application has been filed before the jurisdictional Land Reforms and Tenancy Tribunal in the pending proceeding.

From the record, pleadings in the writ petition and the submissions made on behalf of the parties, it appears at the highest that, the right of the petitioner under the lease alleged to been infringed, if any, by the respondent no.8 for which this constitutional Court in exercising its power under Article 226 of the Constitution of India is not the appropriate forum to deal with it. More so, when a substantive proceeding is pending before the jurisdictional Land Reforms and Tenancy Tribunal, the petitioner could have applied in that pending proceeding or the petitioner could have approached the jurisdictional civil court.

Inasmuch as, the direction of the jurisdictional Land Reforms and Tenancy Tribunal to deposit **Rs.5 Crore** by the petitioner has not been complied with. Therefore, there is no scope in this writ petition to

exercise any equitable jurisdiction in favour of the petitioner.

In view of the above, this Court is of the firm view that, the instant writ petition is not maintainable.

This Court has not gone into the merits of the claim of the petitioner in this writ petition and the petitioner shall be at liberty to take all its points before the appropriate forum.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

Accordingly, this writ petition, **WPA 298 of 2025** stands ***dismissed***, without any order as to costs.

However, in view of the above finding the jurisdictional Police authority may look into the complaint dated ***January 22, 2025*** in accordance with law.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)