

(1974) 05 CAL CK 0001

In the Calcutta High Court

Case No : Civil Rule No's. 1165 (W) to 1168 (W) of 1973

Ahadi Shaikh and Others

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 10-05-1974

Acts Referred:

West Bengal Land Reforms Act, 1955 — Section 14S(3), 14T, 49

Citation : 78 CWN 819

Hon'ble Judges : Amiya Kumar Mookerji, J

Bench : Single Bench

Advocate : Manas Nath Roy and Md. Qudrat-E-Kabir, for the Appellant; Prafulla Mukherjee for the State, for the Respondent

Judgement

Amiya Kumar Mookherji, J

1. The petitioner is a Bargadar of 60 decimals of land in plot No. 934 tinder Khatian No. 971/1 of Mouza Khorjune in the district of Murshidabad. In Bhag Chas Case No. 17/71-72 by an order dated 19.1.72 the petitioner was found to be a bargadar of the disputed land. The said order is Annexure "A" to the petition. Thereafter the petitioner made an application to the Junior Land Reforms Officer in the first week of April, 1973 for granting permanent settlement of the land in question with the petitioner. The Block Level Land Reforms Advisory Committee, Barwan Circle, adopted a resolution on 6.1.73 to the effect that the lands in question would not be settled with the petitioner and the same would be settled with others. The petitioner challenges this resolution on the ground that the so called Block Level Land Reforms Advisory Committee has got no authority to act as such. The J.L.R.O.--the respondent No. 4 acted illegally in proceeding on the directions of the Block Level Land Reforms Advisory Committee which has no statutory authority under the law. It is stated that the respondent No. 4 granted licence of the lands in question for 1380 B.S. to the respondent Nos. 18 to 19 in respect of the petitioner's 60 decimals of land and the said respondents are threatening to disturb the possession of the petitioner.

Mr. Roy, for the petitioner contended that the respondent No. 4 acted illegally and without jurisdiction in not admitting the status of the petitioner as a raiyat and in respect of the land in question, inasmuch as he is a Bargadar of the land, according to the provisions of section 14-S (3) of the West Bengal Land Reforms Act prior to the vesting u/s 14T of the said Act. It is further contended that the Junior Land Reforms Officer acted illegally in acting upon the advice and/or direction of the so called Block Level Land Reforms Advisory Committee which has got no authority to do so under the law.

2. In the affidavit-in-opposition filed on behalf of the respondents Nos. 1 to 5 and affirmed by Chittaranjan Banerjee the Junior Land Reforms Officer, it is stated that the Block Level Land Reforms Advisory Committee is lawfully constituted authority in the matter of khas lands settled, as will appear from the Board of Revenue No. 6903/15 GR dated April, 1972 containing directions in connection with the management of the Government estate. No material was placed before me to show that the said Committee is a validly constituted committee. In my opinion, for the purpose of the settlement of the khas lands of the Government the Junior Land Reforms Officer has no business to consult the said committee as that committee has not been appointed u/s 49 of the Act nor that committee is a statutory organisation whose resolution is binding on the Junior Land Reforms Officer. It is also stated in the said affidavit-in-opposition that the petitioner owns and possesses 3.40 acres of land already and the settlement of khas lands vested in the State is made with the landless or poor cultivator who has land below one hectre. In the affidavit-in-reply it is stated that at the material time the petitioner had only 98 decimals of agricultural lands out of which he had to sell 20 decimals six years back by registered deed. If the Barga land of 60 decimals be taken with his own land, it would be 1.58 acres which is far less than one hectre, i.e., 2.48 acres. Therefore, it is not correct to say that the petitioner does not come in the category of poor cultivator who owns and possesses below one hectre of land. Considering the facts and circumstances of the case, this Rule is made absolute. The resolution No. 18 dated 6.1.73 adopted by the Block Level Land Reforms Advisory Committee which is Annexure "C" to the petition is set aside by a Writ of Mandamus.

There will be no order as to costs.

This order will govern the other three Rules, namely, 1166(W)--68(W) of 1973.