

(2019) 09 CAL CK 0093
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 117 Of 2019

AVIS Island Coconut Plantation Coop	Vs	APPELLANT
Andaman And Nicobar Administration & Others		RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Andaman & Nicobar Islands Co-Operative Societies Regulation, 1973 — Section 13(1)
(a)
Constitution Of India, 1950 — Article 226
Andaman And Nicobar Islands Land Revenue And Land Reforms Regulations, 1966 —
Regulation 151

Citation : (2019) 09 CAL CK 0093

Hon'ble Judges : Sahidullah Munshi, J

Bench : Single Bench

Advocate : Anjili Nag

Final Decision : Allowed

Judgement

Sahidullah Munshi, J

In view of extreme urgency pleaded, and this Court being satisfied prima facie about such grave urgency dispenses with the notice under Rule 27 of the Rules of the High Court, Calcutta relating to Applications under Article 226 of the Constitution.

This matter has got a chequered history of too many writ petitions and appeals therefrom.

This present writ petition is directed against an order being No.393 dated 20th November, 2018, order No.270 dated 18th March, 2019 and order No.278 dated 20th March, 2019.

Apart from other issues, a short point raised in this case by the petitioner whether the order impugned i.e. the last order dated 20th March, 2019 can be passed by the Deputy Commissioner, North and Middle Andaman directing

resumption of the petitioner-society's land in conformity with the Regulation 151 of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulations, 1966. The first order is the parent order whereby Registrar of Cooperative Societies passed order of winding up of affairs of the petitioner society with the rider that if no appeal was preferred within 60 days the order so passed would take effect. The second order is an order of dismissal of the appeal of the petitioner challenging the aforesaid order dated 20th November, 2018. The third order is an order consequential to the first order impugned and by this order the Deputy Commissioner has ordered for resumption of the land of the Society.

The winding up order emanates from the alleged joint venture agreement with Respondent No.4 by the Society proposing to utilize some portion of the Society's allotted land for tourism purpose and subsequent cancellation of the term thereof.

On prima facie perusal of the writ petition it comes to my mind that the Respondent No.3 while passing the impugned order of winding up misdirected himself that the said agreement amounts to transfer of assets of the Society to a private party (Respondent No.4) which according to him is in violation of section 13(1) (a) of the Andaman & Nicobar Islands Co-operative Societies Regulation, 1973. Since the petitioner has challenged all the orders, this Court is of the prima facie view that this writ petition will become infructuous if the authorities are not restrained from giving final effect to the orders under challenge particularly when it has been brought to the notice of this Court that taking advantage of the last order the authorities have entered into the land and destroyed number of plantation over the disputed land of the Society.

Having regard to the averments made in paragraph 34 of the writ petition and the urgency pleaded before this Court as well as the balance of convenience and inconvenience of the parties particularly with regard to the fact that the authority by virtue of the orders impugned are destroying the plantations to the severe irreparable prejudice of the petitioner-society over the land in question, this Court deems it appropriate to interfere in the matter and protect the interest of the petitioner atleast for a limited period.

In my view, the orders impugned are to be stayed for the present. Accordingly, I restrain the respondent Nos.2,3 and 5 from giving any effect or further effect to the impugned orders being order No.393 dated 20th November, 2018 (Annexure P-18 to the writ petition), order dated 18th March, 2019 and the order No.278 dated 20th March, 2019 for a period of eight weeks from date with liberty to pray for extension upon notice to the respondents.

The petitioners are directed to serve a copy of this application upon the respondents by registered post with AD as well as through personal service and to file an affidavit of service on the returnable date.

The matter is made returnable on 29th March, 2019.

Let a plain photocopy of this order duly countersigned by the Assistant Registrar(Court) be given to the learned counsel for the petitioners upon usual undertakings.