
(1980) 06 CAL CK 0009
In the Calcutta High Court

Mohammad Molla

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 03-06-1980

Acts Referred:

Citation : (1980) 06 CAL CK 0009

Hon'ble Judges : G.N. Ray, J

Bench : Single Bench

Advocate : M.P. Mukherji, for the Appellant; U.P. Mukherji for Respondents and Partha Dutta for State, for the Respondent

Judgement

G.N. Ray, J.—In this Rule Memo dated 18th August 1978 issued by the Junior Land Reforms Officer, Jaynagar II, 24-Parganas to the Officer-in-Charge of Jaynagar Police Station is under challenge. It appears that the Respondent No. 5 Rousan Ali Mondal made a complaint before the Junior Land Reforms Officer that the petitioner Mohammad Molla was creating disturbances in the peaceful cultivation of the said land and/or was attempting to trespass upon the said land. On the basis of such complaint made to the Junior Land Reforms Officer, the Junior Land Reforms Officer caused an enquiry and it appears from the impugned order that a decision of the Block Level Land Reforms Advisory Committee dated 16th August, 1978 was also made available to the said Junior Land Reforms Officer and on that basis, he requested the Officer-in-Charge, Jaynagar Police Station to give necessary police protection to the Respondent No. 5 Rousan Ali Mondal for his peaceful cultivation of the disputed land.

2. Mr. Mukherji learned Counsel for the petitioner contend that simply because an allegation was made before the Junior Land Reforms Officer that somebody was trespassing upon the land of the said complainant, the Junior Land Reforms Officer had no business to request the Police authorities to give protection to the party concerned and such exercise of power is not authorized under any of the provision of the Land Reforms Act. Mr. Mukherji has pointed out that if a dispute as to barge cultivation is raised, the Bhagchas Officer is required to decide the

said dispute under the provisions of S. 18 of the Land Reforms Act. Mr. Mukherji has also pointed out that for the alleged criminal action, namely, trespass and/or interference with peaceful possession of the complainant, there are other provisions of law and there are different statutory authorities who can take appropriate action against such wrong-doer. The Junior Land Reforms Officer has overstepped his limit in this case and has purported to assume jurisdiction not warranted under the provisions of Land Reforms Act.

3. The learned Counsel for the State, however, has produced a report from which it appears that the Junior Land Reforms Officer caused an enquiry and on the basis of the enquiry the said Memo was issued by him. It is immaterial whether the Junior Land Reforms Officer himself caused an enquiry or he got a report from other sources. The point for determination in this Rule is whether on the basis of a complaint of trespass or other criminal activities, the Junior Land Reforms Officer had any authority to request the Officer-in-Charge of the Police Station to give protection to a particular party making complaint before him. In my view, Mr. Mukherji is correct in his submission that the Junior Land Reforms Officer was not clothed with any such power under the provisions of the Land Reforms Act. He clearly overstepped his limit by sending the request to the Police Officer on the basis of a complaint made by the Respondent No. 5. On that score alone, the Rule must succeed.

4. The impugned Memo is, therefore, quashed. The Rule is made absolute. There will be no order as costs.

5. I, however, make it clear that this court has not expressed any opinion as to whether the petitioner is a bargadar or not and if a proper petition is presented by the petitioner claiming his right as bargadar before the appropriate forum, such appropriate forum will obviously decide the dispute raised by the petitioner as to barga cultivation. It is also made clear that as it is not necessary for this Court to decide whether the petitioner is a bargadar or not for the purpose of disposal of this Rule, this Court has not decided the other contentions raised by the parties.