
(2000) 12 CAL CK 0026
In the Calcutta High Court
Case No : W.B.L.R.T. No. 737 of 2000

Mrinal Kanti Pal and Another

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 05-12-2000

Acts Referred:

Constitution of India, 1950 — Article 254

West Bengal Land Reforms Act, 1955 — Section 14C, 14T, 14T(3), 14T(6), 14T(7)

Citation : 105 CWN 503

Hon'ble Judges : Satya Brata Sinha, J;Pratap Kumar Ray, J

Bench : Division Bench

Advocate : S.S. Arebin, for the Appellant;H.K. Basu and Sabita Roy, for the Respondent

Final Decision : Dismissed

Judgement

Pratap Kumar Ray, J.—This writ application has been filed challenging the order dated 29th May, 2000, passed by West Bengal Land Reforms and Tenancy Tribunal in connection with O.A. No. 471 / 2000 / LRTT. whereby and whereunder direction was given to the Revenue Officer concerned to dispose of the proceedings u/s 14T(3) read with Section 14C of the West Bengal Land Reforms Act, 1955, registered as case No. 9/7AA/SUO/2000, as well as the subsequent proceeding being case No. 10/2000 u/s 14T(5) read with Section 14T(9) of the West Bengal Land Reforms Act, 1955, being the offshoot of the main proceeding upon giving opportunity of hearing to all the applicants and other legal heirs of deceased Radha Raman Pal.

In this writ application, petitioners have assailed the said order of learned Tribunal and prayed the following reliefs:

(a) A writ in the nature of mandamus commanding the respondents, their men and agents from giving any effect or further effect to the provisions of the West Bengal Land Reforms (Third) Amendment Act, 1986.

(b) Issue a further writ in the nature of mandamus commanding the respondent their men and agents not to give any effect or proceed further in respect of the Notice being Annexure-P/ 3 to the writ petition after set aside the order of Hon"ble Tribunal dated 29.5.2000.

(c) Rule nisi in terms of Prayers (a) and (b).

(d) Ad-interim order of Injunction directing the respondents not to give any effect or further effect in view of the notice being annexure-P/3 to the writ petition and not to disturb the petitioners peaceful possession of the petitioners" cultivation of their lands till the disposal of the writ petition.

(e) Pass such other or further order or orders which Their Lordships may deem fit and proper.

2. Heard the learned Advocates appearing for respective parties. The case of the writ petitioner is as follows:

One Radha Raman Pal since deceased gifted most of his properties to his major sons and daughters by registered deeds of gift, sometime in the year 1967 and thereby his land properties came within the ceiling limit being 7.75 acres land including homestead. The present writ petitioners and their sisters in terms of the aforesaid deed of gift, being in possession are enjoying the usufructs therefrom upon mutation of their names and payments of the rent to the Government and thereby have been the direct tenant under the State of West Bengal. A Big Raiyats case bearing No. 251/69 was started against Radha Raman Pal and some properties were vested. Assailing the said order of vesting in the Big Raiyat case, Radha Raman Pal, since deceased filed the title suit No.83/4/40 of 72/72/70 before the competent Court and a judgment and decree was passed by the learned Court of Subordinate Judge, Burdwan on 25th day of July, 1972 in the aforesaid suit upon decreeing the suit on contest on declaring that the order of Big Raiyat case was invalid, illegal and ultra vires and not binding upon the plaintiff and plaintiff was entitled to retain Schedules A, B and C lands of the said suit.

3. Radha Raman Pal breathed last on the 21st November, 1984 and the retained lands of the Radha Raman Pal, and lands in terms of the said title suit came to the hands of the petitioners and their sisters as per Hindu Law of Succession and the instruments respectively, they are enjoying the usufructs upon having possession of the said land on proper mutation and payments of the taxes to the State of West Bengal. A notice u/s 14T (3) read with Section 14C of the West Bengal Land Reforms Act, 1955 being case No.9/7AA.SUO/2000 dated 19th January, 2000 was issued to the writ petitioner No. 1, Sri Mrinal Kanti Pal asking him to file return on behalf of his deceased father under form No. 7AA. On 28th January, 2000, writ petitioner No. 2, Tushar Kanti Pal appeared for himself and the other legal heirs and prayed adjournment of hearing with prayer to issue notices to all the legal heirs.

4. The concerned Revenue Officer stayed the hearing but no further notices served to all the petitioners. Subsequently, another proceeding was initiated by the Revenue Officer being the case No. 1012000 u/s 14T (5) read with Section 14T (9) of the West Bengal Land Reforms Act, 1955 and notices were served to the legal heirs of the deceased Radha Raman Pal. Assailing the initiation of these two proceedings, the legal heirs, the present writ petitioners moved West Bengal Land Reforms and Tenancy Tribunal whereby and whereunder the impugned order dated 29th May, 2000 was passed.

5. It is submitted by the learned Advocate of the writ petitioner that the order is not legally sustainable and of without jurisdiction in view of the following reasons:

(a) That the title suit assailing the order of vesting under Big Raiyat case when reached its finality, the Revenue Officer had no jurisdiction to reopen the matter and accordingly the impugned notices are bad in law as the Revenue Officer has transgressed the jurisdiction of the judiciary.

(b) That the provision u/s 14T(5)(6)(7) and (8) of West Bengal Land Reforms Act, 1955 are unreasonable, uncannalised and unconstitutional.

(c) That the Revenue Officer has no power of authority to serve the notices when the entire matter is subjudice before the Hon'ble Apex Court of India. That the notice of this proceeding should have been served to all the legal heirs. That the Amendment Act. 1986 dated 12th May, 1989 has violated the principle of natural justice. That the Revenue Officer has no jurisdiction to direct the submission of fresh return.

6. The respondents have opposed the matter by showing the provisions of the West Bengal Land Reforms Act, 1955, hereinafter referred to as said Act.

7. On consideration of submission of both the parties, the matter is adjudicated as follows:

So far as the aforesaid submission No. (a), it is revealed on simple perusal of the judgment and decree passed in the suit that the said judgment and decree was not a bar for initiation of any further proceeding in terms of the change of the statute. This fact is revealed from the observation of learned Judge in the aforesaid judgment namely: "The State must start proceeding under Chapter-IIB of the West Bengal Land Reforms Act and then and then only they can lower the ceiling limit of different categories of land.

8. Further, in determining the issue Nos. 6 and 7 of said suit, the learned Subordinate Judge, Burdwan held: "But, in conclusion one word may be said that the decree which the plaintiff will obtain will be subject to the statutory changes envisaged in the West Bengal Land Reforms Act"

9. That from the aforesaid findings of the learned Subordinate Judge, Burdwan deciding the suit, the contention of the writ petitioners herein is not legally sustainable but same is against the findings and records of the suit they are

relying upon. Hence, the submission of the learned Advocate for the petitioners and the averments to that effect in the writ application is nothing but misrepresentation. Such conduct of the petitioner is not fair. Only on this ground the writ application is to be rejected for making false submission before this Court and for not pointing out the real state of affairs with cost for such misrepresentation.

10. So far as the submission No. (b) of the learned Advocate for the petitioners is concerned that the provisions of the Section 14T(5)(6)(7) and (8) of said Act are unreasonable, uncannalised and unconstitutional, the answer is already given by the Division Bench judgment of this Court and this point is at all res integra.

11. The question that the said provisions of the West Bengal Land Reforms Act, are intra vires of the Constitution of India has been finally decided by two Division Bench judgments of this Court namely in case Sri Bibhuti Bhusan Bankura & Ors. vs. State of West Bengal reported in 1994(1) CLJ 353, and in the judgment Paschinbanga Bhumijibi Krishak Samiti vs. State of West Bengal reported in 1996(2) CHN 212, in the judgment of Paschimbanga Bhumijibi Krishak Samiti (supra), one of us (S.B, Sinha, J.) was Presiding Judge wherein it is held that the provision of Section 14T(8) and 14T(9) of the West Bengal Land Reforms Act are not invalid and retrospective operation of the provisions is not ultra vires the Constitution of India.

12. In the judgment reported in 1994(1) CLJ 353 (supra), Section 14T(5) of West Bengal Land Reforms Act, 1955 qua the Benami Transaction (Prohibition) Act, 1988 came up for decision when it was assailed on the ground of repugnancy under Article 254 of Constitution of India. Further in the said judgment, the provision of Section 14T(5) of the said Act was assailed on the ground that Revenue Officer has no power to decide the question as the same would do nothing but review of the earlier actions in the Big Raiyat Case and/or proceeding. All the contentions were nullified by the said Division Bench judgment holding, inter alia, there was no repugnancy and provision of Section 14T(5) of the West Bengal Land Reforms Act is not ultra vires the Constitution of India and the Revenue Officer has the jurisdiction to initiate the proceeding. In deciding this issue the Division Bench at length considered all the judgment on retrospective effect of the statute and on consideration of all the aspects of the matter held accordingly.

13. Hence, contention of the learned Advocate for the petitioner in the instant case to that extent since covered by the two Division Bench judgments of this Court and which are binding to the co-ordinate Division Bench, there is no merit in the submission.

14. So far as the submission under point No. C aforesaid of the learned Advocate for the petitioners is concerned it is found that there is only an order of status quo so far as the possession to be maintained by the parties is concerned there is no order that entire proceeding will remain stayed. In view of such contention

of the learned Advocate is not legally tenable, hence rejected.

15. Considering the all matters I am of the view that impugned order in the writ petition is a very innocuous order and since the writ petitioner represented before the Revenue Officer on behalf of all other legal heirs and since in my opinion the Revenue Officer has the jurisdiction to proceed with the pending proceedings u/s 14T(3) and proceeding u/s 14T(5) as aforesaid, there is no illegality in the order impugned in the writ petition for judicial review.

16. Beside such the writ petitioner has not challenged the vires of the Section 14T(5) (6) (7) (8) and (9) either before the Tribunal and before here with any cogent grounds distinguishing the judgments of Division Bench of this Court aforementioned, the points for the first time as raised and without my new grounds before this Court is not legally sustainable.

17. In that view of the matter, the application fails and same is rejected with cost of Rs. 2,500/- to be paid by the writ petitioners for misrepresentation relating to the findings of the judgment and decree of learned Court below in the title suit. Such amount to be deposited to Mother Teresa Charitable Fund within fortnight from this date. As per the order of the learned Tribunal, Revenue Officer will proceed firstly with the proceeding u/s 14T(5) of the said Act and on conclusion of the same, the proceeding u/s 14T(3) of the said Act to be decided. Upon hearing all the parties concerned and will pass the reasoned order in respect of the two pending proceedings in accordance with law.

In view of the Apex Court view in a pending proceeding relating to Section 14T of the West Bengal Land Reforms Act, an order of status quo so far as the possession over lands are to be maintained till the finality of the matter by the Apex Court.

The application is dismissed accordingly, with cost as aforesaid.

Satya Brata Sinha, J.

I agree.