

(2020) 02 CAL CK 0087

In the Calcutta High Court

Case No : Wb Land Re & Ten.226 (WPLRT) No. 10 Of 2020

Panchanan Mandal

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 27-02-2020

Acts Referred:

West Bengal Land Reforms And Tenancy Tribunal Act, 1997 — Section 10

Citation : (2020) 02 CAL CK 0087

Hon'ble Judges : Dipankar Datta, J;Madhumati Mitra, J

Bench : Divison Bench

Advocate : P.C.Pal Chowdhury, Chandi Charan De, Haripada Maity, Ambu Bindu Chakraborty, Mrinmoyee Roychoudhury

Final Decision : Dismissed

Judgement

Madhumati Mitra, J

The present writ application has been preferred by the petitioner being aggrieved by the order dated 13.12.2019, passed by the Learned Second Bench

of West Bengal Land Reforms Tenancy Tribunal, dismissing O.A.No.165 of 2016.

Materials placed on record as well as the averments of the O.A.No.165 of 2016 reveal that the present petitioner prayed for a direction upon the

B.L.&L.R.O. concerned to record his name in respect of the disputed land in the relevant record of rights by way of correction/rectification/deletion

of the alleged erroneous entries in the Record of Rights on the basis of his representation dated 09.07.2015, i.e. Annexure-â??P/6â??.

The facts of the case leading to this writ application in nutshell are as follows:-

The present petitioner approached before the West Bengal Land Reforms Tenancy Tribunal for direction upon the respondent no.3 i.e. The Block

Land and Land Reforms Officer, Gosaba, District-24 Parganas (South) for correction/rectification of the entries in the L.R.Record of Rights in

respect of 37 decimals of land comprised in L.R.Khatian No.369 arising out of original L.R.Khatian No.258, L.R.Dag No.73 classified as Bilan of

Mouza, Jelepara under J.L.No.73 at present J.L.No.4, P.S.Gosaba, District-24 Parganas(South), which was alleged to have been erroneously

recorded in the name of the respondent no.4, i.e. minor Sanatan Mondal represented by his father Rabindranath Mondal.

In his application under Section 10 of West Bengal Land Reforms & Tenancy Tribunal Act, 1997, i.e.O.A.No.165 of 2016 the present petitioner

claimed that the land in question was recorded in the name of one Rangilabala Debi Mondal having 16 annas shares in the finally published

L.R.Record of Rights and she was in absolute possession of the said land free from all encumbrances by paying rent to the Govt. against Dakhilas. In

the year 2001, she executed and registered a deed of gift in respect of the said land in favour of the present petitioner who is her son and delivered

possession of the said land to the petitioner. By virtue of that deed of gift the petitioner became the absolute owner of the land in question and started

to possess the said land by paying rent to the Govt. Petitioner stated that he had submitted an application for mutation of his name and a Mutation

Case being No.1097 of 2008 was initiated before the B.L.& L.R.O., Gosaba. He received a notice from Revenue Officer, Gosaba, in respect of his

prayer for mutation and 19.03.2008 was fixed for hearing. Thereafter, the petitioner got information from the office of respondent no.3 that the land in

question was recorded in the name of minor Sanatan Mondal, i.e. present respondent no.4. It was alleged by the petitioner that the name of the

respondent no.4 was wrongly recorded in respect of the land in question in the L.R.R.O.R. The petitioner made a representation dated 09.07.2015, to

the Block Land and Land Reforms Officer, Gosaba, for correction of the entries of the L.R.R.O.R. Petitioner moved an application being

O.A.No.165 of 2016 (LRTT) before the West Bengal Land Reforms and Tenancy Tribunal for issuance of direction upon the respondent no.3 for

correction of the entries in the L.R.R.O.R.

Respondent no.4 appeared and contested that application by filing affidavit-in-opposition. In his affidavit-in-opposition, the respondent no.4 admitted

that the land in question originally belonged to Rangilabala Debi, wife of Ramkrishna Mondal. In his affidavit-in-opposition the respondent no.4 also claimed that on 13.03.2008, the entire land was purchased in the name of respondent no.4 through his father by two separate registered deeds of sale executed by the said Rangilabala Debi. Thereafter, the land was mutated in the name of respondent no.4 and respondent no.4 is possessing the land in question by paying rent to the Govt. through his father. In his affidavit-in-opposition the respondent no.4 also stated that the deed of gift on the basis of which the petitioner Panchanan Mondal has claimed his title over the disputed land was cancelled by a registered cancellation deed being no.442 of 2007 executed by said Rangilabala Debi. Respondent no.4 specifically has claimed that the entries in the record of rights are correct as the petitioner has no right over the disputed land. Respondent no.4 also stated that the petitioner was never in possession of the disputed land on the basis of the deed of gift.

Learned Tribunal on 13.12.2019, dismissed the application being O.A.No.165 of 2016 after observing as under:

“Considering the entire matter laid before us, seed of the dispute between the parties at war, appears to us, centers over deed vs. deed. Resolution of which is beyond the scope and jurisdiction of revenue authority but remains elsewhere.

On the stated ground, in our considered view, the present original application is devoid of merit and as such liable to be dismissed which we accordingly do. No cost is ordered.”

The relief sought by the petitioner before the tribunal was to record his name in respect of the disputed property on the basis of the deed of gift of

2001 after correcting the allegedly erroneous entries in the L.R.Record of Rights standing in the name of respondent no.4.

Now, the question comes whether the Learned Tribunal was justified in refusing the prayer of the petitioner to direct the authority concerned to

correct the entries in the Record of Rights as prayed for by the petitioner.

The order impugned has been assailed by the Learned Counsel for the petitioner on the score that the Learned Tribunal failed to consider the prayer

of the petitioner in its true perspective. It has been contended by the Learned Counsel for the petitioner that the petitioner acquired title and possession

over the disputed property on the basis of the deed of gift executed and registered in the year 2001, in his favour by his mother who was the absolute owner and possessor of the said land. Learned Counsel has laid emphasis on the ground that subsequent execution and registration of deed of

cancellation by the donor unilaterally is not tenable in law. Learned Counsel for the petitioner has vigorously argued that the Learned Tribunal

committed an error in refusing the prayer of the petitioner regarding issuance of direction upon the B.L.&L.R.O., Gosaba to consider his

representation dated 09.07.2015, i.e. Annexure-â??P/6â?? and the order passed by the Learned Tribunal is liable to be set aside.

On the contrary, the Learned Counsel appearing for the respondent no.4 has submitted that the Learned Tribunal rightly passed the impugned order

and the question of interference with the impugned order does not arise.

Learned Counsel for State has submitted that the present writ application is devoid of merit and liable to be dismissed.

We have carefully considered the factual matrix of the case. We have also examined the submission and counter-submission advanced by the

Learned Counsel for the parties.

The materials placed on record as well as the pleadings of the parties, reveal that one Rangilabala Debi, wife of Ramkrishna Mondal was the absolute

owner of the disputed land. Petitioner has claimed that on 31.05.2001, the said Rangilabala Debi executed and registered a deed of gift in respect of

the said land in his favour and delivered the possession to him. It has also been claimed by him that since the date of execution and registration of the

deed of gift, he is in possession of the disputed land. It has been alleged by the petitioner that the disputed land has been wrongly recorded in the name

of respondent no.4 and his representation for correction of entries in the Record of Rights was not considered by the respondent no.3. It is the

contention of the petitioner that the Learned Tribunal has committed an error in refusing the prayer of the petitioner. On the contrary, the respondent

no.4 has specifically claimed that the deed of gift executed and registered by the donor in the year 2001 was subsequently cancelled in 2007 by a

separate deed of cancellation and thereafter, the owner transferred the entire land in favour of the respondent no.4 by executing two separate sale

deeds. The entries in the L.R.R.O.R. in respect of the disputed land were

prepared on the basis of those sale deeds and the entries in the L.R.R.O.R.

in respect of the suit land are not correct.

Petitioner prayed for correction of entries in the L.R.R.O.R. on the basis of a deed of gift of 2001. On the other hand, the respondent no.4 has

contended that the entries in the R.O.R. were made on the basis of subsequent sale deeds registered in the year 2008 after cancelling the deed of gift

of 2001 in the year 2007 by the original owner. In the present case, a gift deed was executed by the owner in favour of the petitioner. It has been

forcefully contended by the Learned Counsel for the petitioner that the said gift was accepted by the donee i.e. the petitioner and once the gift is

accepted, the right of the donor to unilaterally cancel the gift deed ceases to exist.

The contentions of the parties give rise to several legal issues. Those issues may be summarised as under:

1) Whether the deed of gift of 2001 executed by the original owner in favour of the petitioner was acted upon?

2) Whether all the formalities of valid gift [such as (i) whether there was a registered gift deed in favour of petitioner? (ii) whether the petitioner

accepted the gift? (iii) whether the possession of the land was delivered to the petitioner?] were complied with?

3) Whether the donor was divested of her title and donee became the absolute owner of the land?

4) Whether the deed of gift was conditional one and donor retained her right to cancel the gift deed?

5) Whether the deed of gift conferred only limited right upon the donee?

The legal disputes between the petitioner and respondent no.4 relate to the basic question of title of the suit land and require to be investigated. The

prayer of the petitioner for correction of the entries in the L.R.R.O.R. on the basis of the deed of gift of 2001, is of civil nature and the relief is

available in the Civil Court and only the Civil Court is empowered to enquire or investigate into the question of title. Here both the petitioner and the

respondent no.4 are claiming to establish their respective right over the disputed land on the basis of deeds executed by Rangilabala Debi in their

favour on different occasions. No doubt, the principal issue relates to the question of title.

Revenue Authority or the Tribunal has not been empowered to resolve dispute relating to title. It is settled principle of law that the Revenue Authority

and the Tribunal have no authority to decide the question of title of the parties.

Learned Tribunal has rightly observed that the dispute between the parties is outside the scope and jurisdiction of the tribunal.

The question of interference with the impugned order passed by the Learned Tribunal does not arise at all.

The present writ petition is devoid of merit and stands dismissed, without costs.

Urgent Photostat certified copy of this judgment be supplied to the parties, if applied for, upon compliance of all formalities.

I am in complete agreement with my learned sister Mitra, J. that the nature of dispute raised by the petitioner is such that it was beyond the jurisdiction

of the West Bengal Land Reforms and Tenancy Tribunal and that the channel of civil litigation ought to be pursued by him for relief, if so advised.