

(2019) 11 CAL CK 0113
In the Calcutta High Court

Case No : Wb Land Re & Ten.226 (WPLRT) No. 135 Of 2019

Ram Ratan Chowdhary

APPELLANT

Vs

State Of West Bengal And Ors

RESPONDENT

Date of Decision : 14-11-2019

Acts Referred:

West Bengal Land Reforms Act, 1955 — Section 14T(3)
Constitution Of India, 1950 — Article 226

Citation : (2019) 11 CAL CK 0113

Hon'ble Judges : Dipankar Datta, J; Protik Prakash Banerjee, J

Bench : Division Bench

Advocate : Probal Mukherjee, Haradhan Banerjee, Nilanjan Bhattacharya, Santimay Bhattacharya, Suman Kr. Bhattacharya, T.M. Siddique, Nilotpall Chatterje

Final Decision : Disposed Of

Judgement

The petitioner had approached the West Bengal Land Reforms and Tenancy Tribunal (hereafter the tribunal) by presenting O.A. 2650 of 2019 (LRTT). Proceedings initiated by the Block Land and Land Reforms Officer, Bally Jagacha under Section 14T(3) of the West Bengal Land Reforms Act, 1955 (hereafter the 1995 Act) were challenged therein. An interlocutory application was filed for interim relief in the original application. On such interlocutory application, the tribunal has passed an order dated 7th November, 2019 directing that no third party interest should be created in respect of the land forming subject matter of the proceedings. Irked by grant of partial interim relief, the petitioner has questioned the correctness of such order in this writ petition under Article 226 of the Constitution.

In course of hearing, Mr. Mukherjee, learned senior advocate appearing for the petitioner and Mr. Siddique, learned senior Government advocate appearing for the respondents have placed reliance on several orders passed by co-ordinate Benches of this Court as well as orders passed by the Supreme Court.

It is not in dispute that Civil Appeal No. 1416 of 1997 is pending before the Supreme Court, whereon an order was passed on 24th November, 2003 to the following effect:

"...

On a careful consideration of the respective submissions of the learned counsel appearing on either side, we are of the view that the authorities of the State shall ensure notwithstanding the vesting orders that may be passed and mutation that may be effected in the revenue records, no third party rights should be created and no such third parties be inducted or allowed to enter upon and squat on such properties pending disposal of the appeals."

Since the aforesaid order was operative inter-partes, other raiyats, whose lands were sought to be vested by the State in terms of the provisions contained in the 1995 Act, had the occasion to approach the tribunal and thereafter this Court in its writ jurisdiction.

We have been informed that most of the orders passed by this Court restrained the State and its officers from taking over possession of the lands in dispute though liberty was granted to the relevant officer to complete the proceedings, to pass the final order and even to effect mutation, pending the decision on the aforesaid civil appeal before the Supreme Court.

One such order passed by the co-ordinate Bench on 26th November, 2013 in W.P.L.R.T. 339 of 2012 (Krishna Mitra Chowdhury and Ors. -vs- State of West Bengal and Ors.) was carried before the Supreme Court by the State and its officers by filing S.L.P. (C) No. 3913 of 2014. By an order dated 21st February, 2014, the said special leave petition has been dismissed. This is one final order of the Supreme Court that has been placed before us.

The other orders of the Supreme Court relied on by Mr. Siddique, are interim orders whereby notices have been issued and operation of the final orders passed by co-ordinate Benches have been stayed. However, there is no dispute that against the last order dated 15th November, 2018 passed by another co-ordinate Bench in W.P.L.R.T. 70 of 2018 (Nasiram Nandi -vs- The State of West Bengal and Ors.), which has been placed before us, no appeal has been filed before the Supreme Court. In Nasiram Nandi (supra) it was noted and directed as follows:

"Mr. Sahoo, learned advocate appearing for the petitioner has drawn our attention to several orders passed by the Supreme Court as well as by coordinate Benches of this Court. The essence of these orders is that till such time the Supreme Court disposes of Civil Appeal No. 1416 of 1997, proceedings for vesting initiated by the relevant revenue officer may continue and final orders of vesting may be passed but the raiyat may not be dispossessed. There is a further direction that the raiyat, while continuing in possession, shall be restrained from creating third party rights in respect of the properties which are found to be

excess of the ceiling limit prescribed by the Act.

Mr. Deb Roy, learned advocate appearing for the respondents has not been able to place before us any order that takes a view contrary to what we have noticed above.

In that view of the matter, we admit the writ petition and direct stay of operation of the order under challenge.

The respondents shall remain restrained from interfering with the possession of the properties, which have been directed to be vested by the BL&LRO. At the same time, the petitioner shall remain restrained from creating any third party rights in respect thereof. This arrangement shall continue until further orders are passed on this writ petition.

Since the final decision on this writ petition has to await the decision of Civil Appeal No. 1416 of 1997, we see no reason to direct listing of the former prior to disposal of the said appeal. Accordingly, we grant liberty to the parties to mention the writ petition for hearing once Civil Appeal No. 1416 of 1997 is finally disposed of by the Supreme Court."

There is apparently no reason to take a view different from the one taken in *Nasiram Nandi (supra)*. Accordingly, we are of the considered opinion that the petitioner is entitled to interim protection as follows.

We have been informed that at 12.00 noon today, possession of the disputed land was taken over by the officers of the State and a board has been installed thereon conveying to the public at large that possession in respect of the land no longer remains with the petitioner. Immediately, but not later than 24 (twenty four) hours of service of a copy of this order, such board shall be removed, if not removed already.

The respondents shall remain restrained from interfering with possession of the land(s), which has/have been vested by the order of the relevant block land and land reforms officer, noticed by the tribunal. Correction in the record of rights shall not be made without obtaining the leave of the tribunal. At the same time, the petitioner shall remain restrained from creating any third party rights in respect thereof as well as from making any construction on such plot of land.

This arrangement shall continue until further orders are passed on the original application by the tribunal on hearing the parties.

Since no useful purpose would be served in keeping the writ petition pending, we dispose of it with the consent of the parties. There shall be no order for costs.