
(2018) 12 CAL CK 0127
In the Calcutta High Court
Case No : C.O.L.R.T. 3 Of 2018

Samir Kumar Sadhu & Ors

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 20-12-2018

Acts Referred:

West Bengal Land Reforms Act, 1955 — Section 53A

Citation : (2018) 12 CAL CK 0127

Hon'ble Judges : Bibek Chaudhuri, J; Dipankar Datta, J

Bench : Division Bench

Advocate : Malabika Roy Dey, Uttiya Roy, Soumitra Bandyopadhyay, Aniruddha Sen

Final Decision : Disposed Off

Judgement

In this civil revisional application, an order dated September 04, 2018 passed by the West Bengal Land Reforms and Tenancy Tribunal in O.A. 1105 of 2018 (LRTT) is under challenge. By such order, the tribunal made inter alia the following directions:

(1) All interested persons and State authority should be implemented as party-respondents in the original application by submitting a supplementary affidavit on the next date, i.e. August 30, 2019; and (2) a status report shall be filed by the Government representative "about existence of the persons whose names appear in the R.O.R. as per pages 37A, 37B and 37C of the Original Application and for that purpose the authority concerned shall be able to make field enquiry also and to submit the said report before this Tribunal by the date fixed."

Ms. Roy Dey, learned advocate appearing for the petitioners objects to the first direction, as aforesaid, by contending that the tribunal unreasonably rejected the contention that the persons whose names appeared in the relevant record of rights at pages 37A, 37B and 37C of the original application are fictitious persons. It is also submitted by her that Section 53A of the West Bengal Land

Reforms Act mandates impleadment of the revenue officer having jurisdiction in the area in which any land is situated in a suit of a civil nature relating to any such land or portion thereof in which one of the parties to the suit is a member of any Scheduled Tribe and the other party is not a member of the Scheduled Tribe. According to her, such provision does not apply to an original application presented before the tribunal.

It has, accordingly, been submitted by Ms. Roy Dey that the objections were erroneously brushed aside.

Mr. Bandyopadhyay, learned advocate appearing for the State has, however, supported the order passed by the tribunal and he submits that the same does not call for any interference.

We have heard the parties and perused the materials on record.

That the petitioners had raised an issue with regard to the identity of the persons, whose names have been recorded in the record of rights (at pages 37A, 37B and 37C), is apparent from the order of the tribunal. However, their allegation that they are fictitious persons did carry some weight before the tribunal as is revealed from the second direction passed by it.

We are of the considered view that if indeed, upon conducting an inquiry in terms of the order of the tribunal, it is found that such of the persons whose names appear in the relevant record of rights exist, the petitioners should be directed to implead them as respondents in the original application. If any of such persons do not exist, question of impleading them as respondents would not arise.

In that view of the matter, we direct that so long as the inquiry report submitted by the official respondents do not reveal the existence of any or all the persons whose names appear in the record of rights at pages 37A, 37B and 37C of the original application, the petitioners would be under no obligation to implead them as respondents.

That apart, we find the organisational set up of the various offices of the land reforms authorities mentioned in the West Bengal Land and Land Reforms Manual, 1991. Paragraph 16 of such manual reads as follows:

"16. At Block level. (i) At each Block level, there is a Block Land and Land Reforms Office under the overall charge of a Block Land and Land Reforms Officer, of the rank of Special Revenue Officer, Grade II. The Block Office has ordinarily three branches for works mainly relating to (a) survey and settlement, (b) land reform, land management and land utilisation, and (c) quasi-judicial matters. There are one or more Revenue Officers in each branch drawn from the W.B. Subordinate Land Revenue Service Grade I. If necessary, one Revenue Officer may look after works of more than one branch wholly or in part. Works of different branches are allotted to the different Revenue Officers by the Block Land and Land Reforms Officer. More than one officer of the rank of Special Revenue Officer, Grade II may be posted in a Block Office depending upon the

workload.

(ii) The Block Land and Land Reforms Officer has the power to transfer any officer or staff of and below the rank of Revenue Inspector within his jurisdiction in the interest of public service. He also has the power of assigning fieldwork to any officer or staff of and below the rank of Revenue Officer. He may delegate the responsibility of inspection of the fieldwork and Revenue Inspectors' offices to the Revenue Officers under his control."

We are inclined to hold that once the block land and land reforms officer has been made the overall in-charge of a block land and land reforms office and the Block Land and Land Reforms Officer at Mangalkote having been impleaded as one of the respondents in the original application, there was no requirement for making any direction for impleading any other State authority as respondent in the original application at this stage. Such direction as made by the tribunal, accordingly, stands set aside.

With the aforesaid directions, the writ petition stands disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously.