

(2019) 01 CAL CK 0090
In the Calcutta High Court

Case No : Wb Land Re & Ten.226 (Wplrt) No. 116 Of 2018

Sri Hirupada Saha & Anr

APPELLANT

Vs

State Of West Bengal

RESPONDENT

Date of Decision : 24-01-2019

Acts Referred:

West Bengal Land Reforms Act, 1955 — Section 14T(3), 14V

Citation : (2019) 01 CAL CK 0090

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

Bench : Division Bench

Advocate : Ashim Kumar Roy,T.M. Siddique, Nilotpal Chatterjee

Judgement

This writ petition is directed against the judgment and order dated July 20, 2018 passed by the West Bengal Land Reforms and Tenancy Tribunal whereby O.A. 1664 of 2016 (LRTT), presented by the writ petitioners, was disposed of alongwith O.A. 811 of 2017 (LRTT) with several directions.

A proceeding under section 14T(3) of the West Bengal Land Reforms Act, 1955 (hereafter the 'Act') having been initiated against the vendors of the writ petitioners, a learned Judge of this Court on September 24, 1996 was pleased to quash such proceeding in C.O. 14439(W) of 1996 and further directed that if any return in Form-7AA had already been filed and if an order of vesting is passed on such return, that shall not be given effect and that too shall stand quashed. The judgment of the learned Judge was based on the decision of a coordinate Bench of this Court dated July 26, 1996 passed in the case of Paschimbanga Bhumijibi Krishak Samity & Ors. vs. State of West Bengal & Ors., reported in 1996 (2) Cal. LT. 183 (HC).

It is no doubt true that the decision in Paschimbanga Bhumijibi Krishak Samity (supra) has been carried in appeal before the Supreme Court and an order of status quo passed in respect of possession of the lands of the raiyats represented by such Samity. More than two decades have lapsed since the Supreme Court

granted leave to file the appeal, yet, the State does not appear to have taken sufficient steps to have such appeal heard during this period.

Be that as it may, the State did not carry the order dated September 24, 1996 passed in C.O. 14439(W) of 1996 in appeal and, therefore, such order attained finality. Nearly five months thereafter, Misc. Case No. 5 of 1997 was initiated by the relevant Block Land and Land Reforms Officer ('BL&LRO'), whereby he sought to reopen the vesting proceedings, which had already been quashed by the order dated September 24, 1996.

One of several questions that would arise for decision on this writ petition would be, whether in the absence of any appeal against the order dated September 24, 1996 and assuming that the impugned decision in Paschimbanga Bhumijibi Krishak Samity (supra) is reversed by the Supreme Court, any proceeding under section 14T(3) of the Act would still be maintainable in respect of the lands which were the subject matter of C.O. 14439(W) of 1996.

Learned advocate for the State has placed before us a decision of a coordinate Bench dated March 20, 2013 in W.P.L.R.T. 66 of 2013 to contend that there is no bar in completing Misc. Case No. 5 of 1997 in accordance with law. The decision in W.P.L.R.T. 66 of 2013 (supra) has been perused. On a reading thereof, the coordinate Bench appears to have proceeded on the premise that only the vires of section 14V of the Act was under challenge in Paschimbanga Bhumijibi Krisak Samiti (supra). However, on reading the decision in Paschimbanga Bhumijibi Krisak Samiti (supra), more particularly paragraph 4, the impression formed by the coordinate Bench in W.P.L.R.T. 66 of 2013 (supra) does not appear to be correct. We, therefore, do not feel bound by such decision.

However, no final opinion is expressed and such decision would definitely come up for consideration at the time of final hearing of this writ petition alongwith other orders that have been passed by various coordinate Benches, which strike a discordant note.

We are satisfied that an arguable case has been set up by the writ petitioners and, therefore, the writ petition is admitted.

We are also satisfied that the writ petitioners have set up a strong prima facie case for grant of interim protection. We direct that further proceeding of Misc. Case No. 5 of 1997 shall remain stayed until further orders.

Let the State and its officers file affidavit-in-opposition within four weeks; reply thereto, if any, may be filed within two weeks thereafter.

The writ petition shall be listed for hearing in the combined monthly list of April, 2019.

Since the fate of thousands of proceedings pending before this Court, the tribunal as well as the concerned BL & LROs would be dependant on the fate of the aforesaid civil appeal presently pending before the Supreme Court, we hope

and trust that the State shall take appropriate steps before the Supreme Court for early disposal thereof. Not only would an early decision of the Supreme Court result in deciding the fate of lakhs of raiyats in West Bengal, that would also ensure disposal of the pending proceedings in the light of such decision.

We wish to be apprised of the steps that the State has taken to have an early disposal of the civil appeal on the next date.

Copy of this order shall be forwarded to the REGISTRY learned Advocate General of the State of West Bengal by the Registry.