
(1980) 09 CAL CK 0007
In the Calcutta High Court
Case No : C.R. No. 2499 of 1979

State of West Bengal

APPELLANT

Vs

Fani Bhusan Mondal and Others

RESPONDENT

Date of Decision : 26-09-1980

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9

West Bengal Land Reforms Act, 1955 — Section 14(S), 14(T), 14(X), 14M, 14N

Citation : 85 CWN 110

Hon'ble Judges : S.M. Guha, J

Bench : Single Bench

Advocate : Manan Kumar Ghose, for the Appellant;

Final Decision : Allowed

Judgement

Sudhindra Mohan Guha, J.—This revision at the instance of the State of West Bengal is directed against the order No. 33 dated 17th March, 1979 passed by Sri P. K. Das, Munsif, 1st Court Jangipore, Dt. Murshidabad in O. S. No. 294 of 1976 of that Court. The plaintiff, opposite party No. 1 commenced a suit for declaration that the said opposite party was entitled to get a raiyati settlement of the suit-land as described in the Schedule to the plaint from the petitioner under the provisions of the West Bengal Land Reforms Act 1955. Originally the defendant No. 2 (O. P. No, 3) was the owner of the suit-land, and under him the plaintiff opposite party No. 1 was a Bargadar. The suit-land vested in the State under the provisions of West Bengal Estates Acquisition Act, 1953, while the opposite party No. 1 was cultivating the suit-land as a Bargadar.

The suit was contested by the petitioner raising various defences, inter alia that the Civil Court had no jurisdiction to entertain the suit.

By the impugned order the learned Munsif was pleased to hold that the Court had jurisdiction to try the suit.

2. Mr. Manan Kumar, Ghosh, the learned Advocate for the petitioner contends

that the learned Munsif misconceived the provisions contained in sections 14(S), 14(T) and 14(X) of the West Bengal Land Reforms Act, 1955 and committed an error in finding jurisdiction of the Civil Court to entertain the suit. Reliance is placed on the decision in the case of Asraf Hossain vs. Jahangir Hossain, reported in 1978 CHN 755.

3. Section 9, Civil Procedure Code, lays down a general rule in favour of the jurisdiction of the Civil Court and the burden of proof is on the party Who pleads an exception to the general rule. The doctrine now rests on a reluctance to disturb the established state of the law or to deny to the subject access to the seat of justice. Maxwell's Interpretation of Statutes 12th Ed. P. 153.

4. The jurisdiction of the Civil Court to entertain a suit of civil nature would be presumed, unless by special act such jurisdiction is ousted. There must be express provision in the statute or such provision must lead to necessary and inevitable implication of that nature. It must be remembered that a special statute provides for certain remedies may not by itself necessarily exclude the jurisdiction of the Civil Courts to deal with a case brought before it in respect of some of the matters covered by the statute. Firm Firm and Illuri Subbayya Chetty and Sons Vs. The State of Andhra Pradesh, . It is also held in Musamia Imam Haider Bax Razvi Vs. Rabari Govindbhai Ratnabhai and Others, at 446 that if a statute purports to exclude the ordinary jurisdiction of a civil court it must do so either by express terms or by the use of such terms as would necessarily lead to the inference of such exclusion.

5. The Opposite Party No. 1 claiming his raiyati interest in the suit land by virtue of the provision of Section 14-S(3) of the West Bengal Land Reforms Act, 1955 commenced a suit in the Civil Court. Such jurisdiction of the Civil Court to entertain the suit has been challenged by the provision of Section 14X of the Act which runs as follows :--

No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this chapter required to be decided or dealt with or to be determined by the Revenue Officer or other authority specified therein and no orders passed or proceedings commenced under the provisions of this Chapter shall be called in question in any Civil Court.

6. Section 14 S by virtue of which the Opposite Party No. 1 has based his claim comes under Chapter II B of the Act. Section 14X, as it would appear from clear and unambiguous terms and language made therein, has specifically barred the jurisdiction of Civil Courts to determine any matter which is by or under Chapter II B required to be decided or dealt with by the Revenue Officer or the authority specified in Chapter II B. Any order passed in any proceeding under the said Chapter shall not be questioned in a Civil Court.

7. The learned Munsif overlooked the fact that Opposite Party No. 1 did not claim any title to the suit land independently but under the provision of the Land Reforms Act, 1955. In this view of the matter, there is no escape from the finding

that he is not entitled to any redress under the Civil Procedure Code.

8. In the case of Asraf Hossain vs. Jehangir Hossain, reported in 1978 CHN 755 the question was whether the Civil Court has jurisdiction u/s 8 of the West Bengal Land Reforms Act, 1955 to determine ceiling area owned by pre-emptor u/s 14N of the Act. Chittatosh Mookerjee, J. finds that section 8(1) by using the expression "subject to S 14M" has only clarified that a pre-emption by a co-sharer or a contiguous tenant u/s 8 would be conditional upon a determination of his right under Chapter II B of the Act to retain the said land, Sec 8(1) of the Act by using the expression "subject to S 14M" has dispelled all doubts on the question whether or not land acquired by a raiyat under a pre-emption order would be exempted from the ceiling area u/s 14M. It is held by His Lordship that Section 14X has expressly excluded Civil Court's jurisdiction to decide matters coming under Chapter II B. The authorities specified in Chapter II B have the exclusive jurisdiction to determine the question of ceiling area and other allied matters in the manner prescribed in the said Chapter II B.

9. The same principle, in my opinion, also would apply in the case of an application u/s 148 of the Act. Under certain State Acts dealing with the protection of the rights of cultivating tenants exclusive jurisdiction is given to Revenue Courts to try suits falling within the scope of those Acts.

10. In this particular case, as stated earlier, the Opposite Party No. 1 did not claim any independent title to the land--but under the provision of the Act viz., Section 14S, so his redress as to the enforcement of a right is available only under that Act. In the case of The Premier Automobiles Ltd. Vs. Kamlekar Shantaram Wadke of Bombay and Others, the Supreme Court also holds that if the industrial dispute relates to the enforcement of a right or an obligation created under the Act, then the only remedy available to the suitor is to get an adjudication under the Act. In the above facts, circumstances and the position in law the learned Munsif surely committed an error in holding that the Civil Court had jurisdiction to entertain the suit. In the result, this application for revision is allowed--but without costs. The Rule is made absolute. The impugned order is set aside.