

(2019) 03 CAL CK 0072

In the Calcutta High Court

Case No : Wb Land Re & Ten. 226 (WPLRT) No. 17 Of 2019

Tapas Barik And Ors Vs ?State Of West Bengal And Ors

Date of Decision : 14-03-2019

Acts Referred:

West Bengal Land Reforms Act, 1955 — Section 14T(3), 14U(3), 50, 51A

Citation : (2019) 03 CAL CK 0072

Hon'ble Judges : Dipankar Datta, J;Saugata Bhattacharyya, J

Bench : Division Bench

Advocate : Bhaskar Chandra Manna, Chandi Charan De, Soumitra Bandyopadhyay, Aniruddha Sen

Final Decision : Allowed

Judgement

L.R. plot No. 762, measuring 1.35 acre (hereafter the said plot) was owned by one Purnendu Sekhar Maity (hereafter Purnendu). 0.54 acre of the said plot was transferred by way of sale in the year 1973 by Purnendu in favour of Monoranjan Barik (hereafter Monoranjan), being the father of the first three petitioners and the husband of the fourth petitioner.

It is claimed that the name of Monoranjan was entered in the revenue records. The record of rights annexed to the writ petition as well as the original thereof produced before us by Mr. Manna, learned advocate for the petitioners, reflect the name of Monoranjan as the raiyat in respect of the said plot. It is also claimed in the writ petition that after such purchase, Monoranjan had been in possession thereof and paying rents to the Government.

The Block Land and Land Reforms Officer, Contai-III (hereafter the BL&LRO) initiated a proceeding under Section 14T(3) of the West Bengal Land Reforms Act, 1955 (hereafter the Act) against Purnendu. An area measuring 1.00 acre out of 1.35 acre of the said plot along with other lands held by Purnendu stood vested to the State and Purnendu was allowed to retain the balance 0.35 acre of land comprised in the said plot.

Having regard to the provisions of the Act, there cannot be any doubt that

Monoranjan was a post-vesting transferee. Viewing him as a non-interested party in the proceeding under Section 14T(3) of the Act, he was not served with any notice. As a result, neither Monoranjan nor his successors-in-interest, i.e., the petitioners, had any knowledge of the proceeding initiated by the BL&LRO under Section 14T(3) of the Act. An order dated 23rd July, 2004 was passed for vesting of the said plot in the State. Coming to learn of the fact that 0.54 acre of land comprised in the said plot, which was transferred by Purnendu to Monoranjan by way of sale had vested in the State, the petitioners submitted a representation before the BL&LRO praying for correction of record of rights in terms of the title deed executed by and between Purnendu and Monoranjan, preparation of record of rights showing Monoranjan as raiyat in respect of the sold land and payment of rent. In such representation it was indicated that Monoranjan had since expired, and right, title and interest had devolved upon the petitioners.

The representation not having been considered favourably, the petitioners had the occasion to move the West Bengal Land Reforms and Tenancy Tribunal (hereafter the tribunal) by presenting O.A. 3420 of 2017 (LRTT) seeking, inter alia, the following relief:

"To pass an order with a mandatory direction to the respondent authority to correct the record-of rights in respect of the suit land in terms of the title deed, record of rights and payment of rent after due mutation the name of the raiyat in the suit land after cancelling the exparte vesting of the suit land immediately without any further delay under the provision of law under Section 50 and 51A of the West Bengal Land Reforms Act, 1955."

The original application was heard by the First Bench of the tribunal. By an order dated 29th March, 2018, the tribunal proceeded to dismiss the original application but granted liberty to the petitioners to apply under Section 14U(3) of the Act for obtaining proper relief. It was indicated in the said order that if an application was made under Section 14U(3) of the Act, the BL&LRO shall dispose of it in accordance with law within a period of six months from date of receipt thereof.

This order dated 29th March, 2018 passed by the tribunal has been challenged in this writ petition by the original applicants before the tribunal.

We have heard Mr. Manna and Mr. De, learned Additional Government Pleader, appearing for the respondents duly assisted by Mr. Bandyopadhyay and Mr. Sen, learned advocates.

In course of hearing on a previous occasion, we had requested Mr. Buddhadeb Ghosal, learned advocate to assist us as amicus curiae. Mr. Ghosal had referred to the decisions of this Court reported in A.I.R. 1964 Calcutta 183 (Abdul Haque and Anr. -vs- State of West Bengal and Ors.), 1981 (1) CHN 1 (Panchu Molla -vs- Junior Land Reforms Officer), 1988 (1) CHN 267 (Buddhadeb Roy and Ors. -vs- State of West Bengal and Ors.) and 2004 (1) CLJ 191 (Atul Chandra Mahata and Ors. -vs- State of West Bengal and Ors.) in support of the proposition that a post-

vesting transferee is entitled to notice of the vesting proceeding that is initiated by the prescribed authority under Section 14T(3) of the Act.

We have perused the decisions and find the submission advanced by Mr. Ghosal to be correct. After transfer of 0.54 acre of land comprised in the said plot in favour of Monoranjan in 1973, it appears that the prescribed authority had treated Monoranjan as the raiyat in respect thereof and had entered his name in the revenue records leading to preparation of record of rights in terms of the provisions contained in the Act. Thereafter Monoranjan had even paid rent, which was accepted. Not only that, the deed of sale executed by and between Purnendu and Monoranjan was also registered.

Having regard to the aforesaid incidents, it can be safely inferred that the BL&LRO was or must have been aware of the same and in view of the law laid down by this Court consistently over the years that a post-vesting transferee is entitled to notice of vesting proceeding, we are of the considered opinion that prior to passing the order dated 23rd July, 2004 vesting the said plot in the State, the BL&LRO ought to have put the petitioners on notice. We also hold that the tribunal committed an error of jurisdiction in failing to appreciate the contentious issue in the proper perspective and by dismissing the original application with liberty to the petitioners to apply under Section 14U(3) of the Act.

Accordingly, the ex-parte order dated 23rd July, 2004 passed by the BL&LRO without putting the petitioners on notice stands set aside with the result that the BL&LRO shall be under an obligation to re-open the proceedings initiated by him and proceed to dispose of the same upon granting reasonable and adequate opportunity of hearing to the petitioners. At the hearing the petitioners shall be entitled to press for relief available to them in law including, inter alia, relief in terms of the main provision of Section 14U(3) of the Act or if no relief in terms thereof is available, to press for a relief as ordained by the proviso to Section 14U(3) of the Act. The BL&LRO shall proceed to put the petitioners on notice in terms of this order not later than a month from date of its receipt and he shall ensure that the proceedings are completed within six months from date of initiation of such proceedings.

The order of the tribunal also stands set aside.

The writ petition is allowed. There shall be no order for costs.