

(2023) 08 CAL CK 0106
In the Calcutta High Court
Case No : WPA(P) No. 93 Of 2022

Thaddeus Lakra And Others

APPELLANT

Vs

State Of West Bengal And Ors.

RESPONDENT

Date of Decision : 30-08-2023

Acts Referred:

West Bengal Land Reforms Act, 1955 — Section 14C, 14C(1)

Citation : (2023) 08 CAL CK 0106

Hon'ble Judges : T. S. Sivagnanam, CJ;Hiranmay Bhattacharyya, J

Bench : Division Bench

Advocate : Debjyoti Bose, Chandan Kumar Lal, Dyutisree Dass Som, S.N. Mookherjee, T.M. Siddiqui, Dhiraj Kumar Trivedi, Sandeep Prasad Sha, Suchishmita Ghosh, Abhrajit Mitra, Jishnu Chowdhury, Aditya Kanodia, Sankarsan Sarkar

Final Decision : Dismissed

Judgement

Hiranmay Bhattacharyya, J

1. In this Public Interest Litigation, the petitioners have prayed for quashing of the agreements dated 01.03.2011 and 31.01.2017; direction upon the respondent authority to hand over vacant and peaceful possession of the lands to the respective Schedule Tribe recorded raiyats and an order directing the Central Bureau of Investigation (CBI) to enquire into the transfer of the lands in question.

2. The writ petitioners have alleged that several plots of land within mouja Mahisbathan under police station Bidhannagar owned by persons belonging to Schedule Tribe community have been grabbed and a housing complex has been illegally constructed on the said lands by the 15th respondent. The grievance of the writ petitioners is that representations submitted before various authorities yielded no result which compelled them to approach this Court.

3. Mr. Basu, learned advocate appearing for the writ petitioners submitted that the lands owned by schedule tribe raiyats have been snatched by non-tribals in

utter violation of the provisions laid down under Section 14C of the West Bengal Land Reforms Act, 1955 (for short "WBLR Act"). Mr. Basu submitted that the agreements dated 01.03.2011 and 31.01.2017 are illegal and void. He submitted that restrictions have been imposed under WBLR Act for transfer of lands of a raiyat belonging to schedule tribe. He further contended that illegal constructions have been made on the lands belonging to the persons of schedule tribe community.

4. Mr. Mitra, learned senior advocate representing the 15th respondent submitted that the then owners of the tribal land applied and obtained permission under the relevant provisions of WBLR Act. He further submitted that the order granting permission have been accepted by the original owners of land. He also submitted that none of the owners of such tribal lands have denied execution and/or registration of the deeds by virtue of which the plots in question were transferred. He also contended that the development of the lands started on and from 18.07.2016 and the construction of the buildings are complete and all the flats have been sold. Mr. Mitra submitted that this writ petition is liable to be dismissed on the ground of delay and laches.

5. Heard the learned advocates for the parties and perused the materials placed.

6. It is evident from the records that several persons belonging to Schedule Tribe community sub-caste Munda prayed for permission to transfer 2.84 acres of land situated at mouja Mahisbatan before the competent authority under WBLR Act. Section 14C of WBLR Act prescribes the mode of transfer of land of a raiyat belonging to a schedule tribe. Proviso to subsection 1 of Section 14C states that such raiyat may, with the previous permission, in writing, of the Revenue Officer, transfer by sale his plot of land or any part thereof to a person not belonging to any schedule tribe.

7. The Revenue Officer, North 24 Parganas after being satisfied that there is no schedule tribe purchaser granted permission under Section 14C of WBLR Act in favour of one Utpal Mondal and his nominee by an order dated 17.10.2006. The purchaser was directed to make payment of consideration money at the rate as stipulated in the said order. No document has been produced before this Court to show that such order has been subsequently set aside, cancelled or varied. It further appears that the owners of the tribal lands have transferred their lands which is the subject matter of this writ petition by executing the deeds which were also registered. It does not appear that the original raiyats belonging to schedule tribe community have challenged the execution and registration of the deeds by virtue of which the right, title and interest was transferred by such raiyats.

8. It further appears from the materials on record that the State Bank of India through its learned advocate undertook extensive searches and found from the search report that the property belonged to West Bengal Housing Board which is a statutory body and the Board has been paying taxes regularly. At the time of

search, it was found by the Bank that there was an environment clearance certificate dated 06.04.2016, besides sanction plan approved by Bidhannagar Municipal Corporation, NOC from W.B.Fire and Emergency Services, NOC from BSNL, Micro Survey Division, NOC from Airport Authority.

9. It is also not in dispute that construction of buildings is complete and flats have been sold.

10. The order dated 17.10.2006 granting permission for transfer is the foundation for all subsequent steps taken namely transfer of lands by way of execution and registration of deeds; development of the lands and raising of construction thereupon. The schedule tribe raiyats who applied for permission to transfer does not appear to have any grievance against the said order dated 17.10.2006. Such order has already attained finality. The parties have also taken further steps acting on the said permission to transfer. Third parties have also acquired rights in the property in question who are also not before this Court.

11. The original owners of the lands in question have also not approached the Court with any grievance. The action of writ petitioners amounts to assailing the order dated 17.10.2006 by which the Revenue Officer allowed the prayer of the raiyats of tribal lands to transfer their property. What the petitioners could not have done directly are attempting to do so in an indirect manner by filing this writ petition in the year 2022. The writ petitioners have approached this Court at a highly belated stage.

12. For all the reasons as aforesaid, this Court is of the considered view that no relief can be granted in this public interest litigation. Accordingly the writ petition stands dismissed. There shall be, however, no order as to costs.

13. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

I agree.