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20.12.2018  
KC(3)

W.P.L.R.T. 93 of 2018  
Sadek Rahaman and Ors.  
-versus-  
The State of West Bengal and Ors.

Mr. Golam Mostafa,  
Mr. Subir Sabud,  
Mr. T. Samanta.....For the petitioners.

Mr. Aniruddha Sen.....For the State.

The West Bengal Land Reforms and Tenancy Tribunal (hereafter the tribunal) by its order dated 6<sup>th</sup> April, 2018 dismissed O.A. 28 of 2017 (LRTT) presented before it by the original applicants. Such order of dismissal has given rise to this writ petition.

The writ petitioners had approached the tribunal alleging inaction on the part of the officers of the Land Reforms Department to correct the record of rights based on the decree passed by the civil court in Title Suit No. 38 of 2000 on the file of the learned Additional Junior Civil Judge, Berhampore, District Murshidabad.

The tribunal was of the view that in view of Section 57-B of the West Bengal Estates Acquisition Act, 1953 (hereafter the Act of 53) as well as Section 61 of the West Bengal Land Reforms Act, 1955 (hereafter the Act of 55), there was a clear bar for entertainment of the suit by the civil court and the decree did not bind the officers of the Land Reforms department.

We had called for the plaint of Title Suit No. 38 of 2000 on the earlier occasion. It has been produced before us today by Mr. Mostafa, learned advocate for the writ petitioners. Paragraph 3 of the plaint clearly reveals that entry in column no. 23 of the relevant record of rights, according to the writ petitioners, had been wrongly recorded as available for use by the general public through vessels; the fact is that the land in question was being used for agricultural purpose.

It is found on perusal of the judgment delivered by the civil court that Section 11 of the Act of 1955 was taken into consideration to uphold the claim of the writ petitioners. Although the judgment was delivered on 20<sup>th</sup> August, 2009, Section 11 of the Act of 1955 stands deleted from the statute book by West Bengal Act XXXI of 2000 with retrospective effect from 7<sup>th</sup> September, 1969. This deletion escaped the notice of the civil court and is, therefore, considered to be a fatal flaw in the decision making process.

Although it is true that the decree of the civil court was not carried in appeal by the State, which was the defendant no. 1 in such suit, the tribunal was justified in returning the finding that the suit itself not being maintainable having regard to Section 57-B of the Act of 1953 and Section 61 of the Act of 1955, the civil court had no jurisdiction to entertain the dispute raised before it. The decree, for all practical purposes, is a nullity in law.

We see no error in the reasoning assigned by the tribunal. The writ petition stands dismissed.

There shall be no order for costs.

(DIPANKAR DATTA, J.)

(BIBEK CHAUDHURI, J.)