

WPLRT 29 of 2023

Kanchan Khara & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Pratip Mukherjee
Ms. Rima Banerjee
... for the petitioners

Mr. T. M. Siddiqui, Ld. AGP
Mr. Supratim Dhar
... for the State

The writ petition is directed against an order dated November 30, 2022 passed by the West Bengal Land Reforms and Tenancy Tribunal in O.A. 3175 of 2012.

By the impugned order, the learned Tribunal held that, the representation made by the writ petitioners was not maintainable in the eye of law and, therefore, refused to grant any relief to the writ petitioners.

Learned advocate appearing for the writ petitioners submits that, the plot in question is plot no. 1736. He submits that, his client is in possession of such plot. Such plot is described as a 'tank' in the record of rights.

Learned advocate appearing for the writ petitioners submits that, the original writ petitioner purchased land from a vendor. No notice of vesting was ever served upon the original

writ petitioners or the writ petitioners herein or the predecessor-in-interest of the original writ petitioner in respect of any proceedings under the provisions of the West Bengal Estate Acquisition Act, 1953.

Learned advocate appearing for the writ petitioners contends that, other plots of land were not being considered as vested with the State. The authorities allowed mutation in respect of such plots. Learned advocate appearing for the writ petitioners submits that, in such circumstances, the representation may be directed to be decided by the authorities.

Learned advocate appearing for the State submits that, the plot in question was originally included in khatian no. 2983. He refers to the record of rights in respect of such khatian and submits that, 'Bharat Samrat', i.e. Union of India was shown to be the owner of the plots in such khatian. It included plot no. 1736. Such plot was given to a religious trust in the name of 'Sree Sree Annapurna Devi' in which, one Haridas Basu was said to be the 'shebayet'. Thereafter, 'Haridas Basu' created interest in favour of 'Mitra's'. Thereafter, the 'Mitra's' created interest in favour of various persons. The writ petitioners are not tracing their title either from the 'Bharat

Samrat' i.e. Union of India or from the last person holding interest in the property. He contends that under the provisions of the Act of 1953 all intermediary rights between the Union of India and the last title of the land recorded in the record of rights stands vested with the State. Therefore, the writ petitioners did not purchase any right, title and interest in respect of the property concerned for the writ petitioners to be mutated in the record of rights.

Plot no. 1736 is comprised in original khatian no. 2983. Such khatian showed that the Union of India was in possession of the plots covered under such khatian. Such plots were given to 'Sree Sree Annapurna Devi' of whom the 'managing sebayet' was one 'Haridas Basu'. Subsequent record of rights shows that, 'Haridas Basu' created interest in respect of the plots comprised in such khatian in favour of the 'Mitra's'. Apparently, the 'Mitra's' created rights in favour of the 'Chandra's'.

'Haridas Basu' and 'Mitra's' and persons tracing their title through 'Haridas Basu' and 'Mitra's' are intermediaries in the plot concerned.

It is the contention of the writ petitioners that, other plots similarly situate and circumstanced were dealt with

and the State allowed mutation in respect thereof. Such a contention cannot be accepted since, the writ petitioners cannot benefit out of negative equality.

With the coming into effect of the provisions of the Act of 1953, rights of intermediaries stood vested with the State free from all encumbrances.

In such circumstances, since, the original petitioners traces their title to the land from intermediaries whose rights stood vested with the State on the coming into effect of the Act of 1953, the original writ petitioner did not acquire any right, title and interest in respect of plot no. 1736. Therefore, the question of directing the authorities to consider any representation filed by the original writ petitioner or the present writ petitioners does not arise.

In such circumstances, we find no merit in the present writ petition.

WPLRT 29 of 2023 is accordingly dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

