

Atikur Hoque and ors. Vs. the State of West Bengal and ors.

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Court : Kolkata

Decided On : Dec-17-2007

Reported in : (2008)3CALLT122(HC)

Judge : Jayanta Kumar Biswas, J.

Acts : [West Bengal Land Reforms Act, 1955](#) - Section 49A(17); ;West Bengal Land Reforms and Tenancy Tribunal Act, 1997 - Sections 6, 7 and 8; ;West Bengal Land Reforms and Tenancy Tribunal Act, 1977 - Section 6

Appeal No. : W.P. No. 2348 (W) of 2006

Appellant : Atikur Hoque and ors.

Respondent : The State of West Bengal and ors.

Advocate for Def. : A.N. Banerjee, Adv.

Advocate for Pet/Ap. : P. Chaturbedi and ;Sujata Das, Advs.

Disposition : Petition dismissed

Judgement :

Jayanta Kumar Biswas, J.

1. The four petitioners in this writ petition dated January 5, 2006 are seeking a mandamus directing the respondents to give them vacant possession of the lands,

particulars whereof have been given in the writ petition.

2. The lands in question were subject matter of vesting proceedings initiated under the [West Bengal Land Reforms Act, 1955](#). A decision was given by the appropriate authority ordering vesting. The vesting order was set aside in November 1994. Before that the lands had been settled in favour of persons entitled to the benefit of settlement of vested lands. In September 1995 the competent authority annulled the settlement. The case of the petitioners is that consequent upon annulment of settlement, the respondents and particularly the block land reforms officer concerned, incurred the statutory obligation to give back possession of the lands to them.

3. Counsel submits that though by making representation dated December 2, 2005 the block land and land reforms officer was called upon to act in terms of the provisions in Section 49A(17) of the [West Bengal Land Reforms Act, 1955](#), for undisclosed reasons that authority remained inactive. His contention is that under the circumstances the petitioners are entitled to approach the writ Court straight. For this he relies on a single bench decision of this Court in Tahejuddin Mandal v. State of West Bengal and Ors. 2001 WBLR (Cal) 621. Counsel for the state submits that in view of the provisions in the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, Sections 6, 7 and 8, this Court has absolutely no jurisdiction to entertain the writ petition that has been taken out alleging inaction on the part of the block land and land reforms officer. I fully agree with him. In my view, the decision relied on does not apply to the present case.

4. In Section 6 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1977 it has been specifically provided that against inaction of an authority under any specified Act remedy of the person aggrieved is only before the tribunal established under that Act. On the ground that the petitioners are not seeking adjudication of any disputed questions, and that they are merely asking the block land and land reforms officer to act in terms of the provisions of the statute, in my opinion, they are not entitled to approach the writ Court treating it as the Court of the first instance. If they are permitted to do that, it will amount to clear contravention of the specific provision in Section 6 of the 1997 Act. In my view, the

remedy of the petitioners against the alleged inaction of the block land and land reforms officer, an authority under the [West Bengal Land Reforms Act, 1955](#), a specified Act within the meaning of provisions of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, is only before the tribunal established under this Act. This Court has no jurisdiction to entertain the writ petition.

5. For these reasons, I dismiss the writ petition. There shall be no order for costs.

Urgent certified xerox copy of this order shall be supplied to the parties, if applied for, within three days from the date of receipt of the file by the Section concerned.

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