
(2010) 07 CAL CK 0015

Calcutta High Court

Case No: W.P.L.R.T. No. 74 of 2009

Sabitri Devi Bhagat

APPELLANT

Vs

Sanjeev Chopra

RESPONDENT

Date of Decision: July 5, 2010

Acts Referred:

- Constitution of India, 1950 - Article 215

Citation: (2011) 4 CHN 713

Hon'ble Judges: M.K. Chaudhuri, J; Amit Talukdar, J

Bench: Division Bench

Advocate: Indrajit Mondal and Amit Banerjee, for the Appellant; A.N. Banerjee and Ziaui Islam for the Respondent No. 1, for the Respondent

Judgement

Dr. M. K. Chaudhuri, J.

This is an application under Article 215 of the Constitution of India read with the Contempt of Courts Act, 1971. The petitioners Sabitri Devi Bhagat and others filed an application under Article 215 of the Constitution of India read with the Contempt of Courts Act, 1971 against Bidhan Chandra Pandey and others i.e. respondent Nos. 1 to 3 for violation of the order of Hon'ble Division Bench.

2. The petitioner moved writ petition bearing No. W.P.L.R.T. No. 74 of 2009 in the Division Bench of this Court. This Court on 19.03.09 passed an interim order in terms of prayer "F" of the application. The petitioner filed the writ in the nature of mandamus commanding the respondents to cancel the order dated 17th December, 2008 passed in O.A. No. 2792 of 2008 (LRTT) and also for directing the respondents i.e. Block Land and Land Reforms Officer, Harischandrapur Block-II and Block-I to tamul the order dated 06.02.08 passed in Case No. 12/FC/R/ HC-pur-11/2007 and to correct the record of rights. They further prayed in the nature of mandamus restraining the respondents from disturbing the, possession of the petitioners in the retained lands. This Division Bench on 19th March, 2009 was pleased to pass an interim order in terms of prayer "F" of the writ

petition i.e. restraining the respondents from disturbing the possession of the petitioners in the retained lands in Case No. 12/ FC/ R/ HC-pur-II/2007.

3. According to the petitioner, the respondent Nos.1 to 3 are treating the lands as vested lands and refused to treat the petitioners as raiyats and further refused to accept any rent for case lands from the petitioners. The petitioners have preferred this application under Article 215 of the Constitution of India. This petition has been opposed by the respondents/contemner by filing affidavit-in-opposition.

4. According to the contemner/respondent the petitioner Smt. Sabitri Devi Bhagat filed O.A. No. 2792 of 2008 for getting Khatian copy from the Block Land and Land Reforms Officer, HCP-1 Block The Hon"ble LRTT in its order dated 17.12.08 directed Block Land and Land Reforms Officer, HCP-I to treat the writ application as representation by the petitioner. In the meantime, the B.L. and L.R.O., Malda vide his letter dated 24.10.08 directed the respondent No. 1 to review Case No. 12/FC/ R/HC-pur-II/2007 u/s 141 (3A) and not to issue copies of the relevant Khatians till further order. The Case No. 12/ FC/R/HC-pur-11/2007 was reviewed on 13.04.09 but possession of the petitioners in Case No. 12/FC/R/HC-pur-II/2007 was not disturbed as per direction of Hon"ble High Court.

5. Hence, the respondents have prayed for dismissal, of the contempt petition.

6. Heard learned Counsels of both sides. According to the petitioner, Hon"ble Court's order dated 19.03.09 was violated by the respondents. By the order of LRTT dated 17.12.08 the Case No. 12/FC/ R/HC-pur-II/2007 was reviewed on 13.04.09. Hence, petitioners have prayed for an appropriate action under Article 215 of the Constitution of India. On the other hand, learned Counsel for the contemnors/ respondent has stated that they did not violate any order by disturbing the possession of the writ petitioner, therefore, the question of contempt does not arise.

7. We have carefully heard the submissions of learned Counsels of both sides. It is submitted by Mr. Ziaul Islam appearing for the alleged contemnor No. 1 that order of the Hon"ble Court has not been violated in any way not to speak of any wilful violation. Mere review of the Case No. 12/FC/R/HC-pur-II/ 2007 does not tantamount to disturbing possession of the petitioner.

8. On scrutiny of the materials and submissions of both sides, we do not find any material to hold that the possession of the petitioner was ever disturbed by the respondents. From the materials it appears that no employee from Block Land and Land Reforms Officer, HCP-I and HCP-II was sent to take possession. Moreover, no third party's right created. Therefore, question of disturbing possession of the petitioner in the land in question does not arise.

9. Affidavit-in-opposition and counter affidavit have been filed.

10. On close and careful scrutiny nothing is forthcoming to hold that the order of this Division Bench was violated. The order of this Division Bench" dated 19.03.09 has not been violated in any manner. Therefore, we find no other alternative but to dismiss the application.

11. It is ordered, the application under Contempt to Court Act, 1971 read with Article 215 of the Constitution of India is dismissed. The petition is, therefore, disposed of.

Amit Talukdar, J.

12. I agree.