

(1987) 07 CAL CK 0001

Calcutta High Court

Case No: C.R. No. 3026 (W) of 1978

Rabindra Nath Chakraborty

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

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**Date of Decision:** July 8, 1987**Acts Referred:**

- West Bengal Land Reforms Act, 1955 - Section 14M, 14N, 14T, 14T(3), 57

**Citation:** 92 CWN 329**Hon'ble Judges:** K.M. Yusuf, J**Bench:** Single Bench**Advocate:** Mrinal Kanti Das, for the Appellant;

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### Judgement

K.M. Yusuf, J.

In this Rule the case of the writ petitioner (since deceased and substituted by his legal heirs), in short, is that he was the owner and possessed about 20 acres of agricultural land including homestead land in non-irrigated area. The land, as such, was much, below the ceiling " limit. Or 7th November, 1977 the writ petitioner received a notice dated. 17th October, 1977 purported to be u/s 57 of the West Bengal Land Reforms Act in respect of Case No. 66/14T/Thatrigram by the Revenue Officer, Respondent No.4, stating, inter alia, that as the petitioner and the members of the family were holding lands more than the ceiling limit contrary to section 14M of the Act after 15th February, 1971, they were required to furnish Return in Form 7A u/s 14T of the Act within the date specified in the impugned notice. The notice was duly served and the first hearing took place on 15th November, 1977 when the petitioner through one Amanda Mohan Ballav prayed for adjournment till 17th November, 1977 on which date Shri A. K. Advocate appeared on behalf of the petitioner, and prayed for adjournment on the ground of the petitioner's illness and the next date fixed on 29th November, 1977. When the matter was taken up for hearing on 29th November, 1977, the petitioner, filed an application before the Revenue Officer stating that he has filed a petition before the Sub-Divisional Land

Reforms Officer, Kalna, the Respondent No. 5, u/s 14N of the Act for (nation whether the land in question is or is not within the irrigated area. This application u/s 14N of the Act was filed before the Respondent No.5 on the very date, i.e. 29th November, 1977 on which date this case was fixed for hearing before the Respondent No.4. The Revenue Officer rejected the contention of the petitioner on the basis of a Notification No. 7352 L Ref. dated 1st July, 1971 and proceeded with the hearing of the case and the case was finally heard on 8th December, 1977 when the Revenue Officer passed order u/s 14T(3) of the Act and directed that the vested land be taken possession of by the J.L.R.O., Kalna, after observing legal formalities. The learned Counsel appearing for the substituted writ petitioner contends that the Revenue Officer should not have proceeded in the matter until determination u/s 14N of the Act by the Respondent No.5. In this connection the learned Counsel cites two cases reported in 1982(1) C.L.J. 434 (Reazuddin Ahmed v. State of West Bengal) and 1977 C.H.N. page 926 (Bamapada Mallick v. State of West Bengal) in support of his contention that the application u/s 14N of the Act must be disposed of first before taking into consideration the proceedings u/s 14T of the Act. But he has not placed before this court the Notification No. 7352L Ref. dated 1st July, 1971 on the basis of which the Revenue Officer proceeded with the case and passed the order though this notification has been dealt with in Reazuddin's case by B. C. Ray, J.

2. I am in full agreement with the contention of the learned Counsel for the petitioners so far as the legal position is concerned, but I am unable to give the benefit of these case laws to the petitioners because of the deliberate mala fide intention on the part of the original writ petitioner as appears" from the facts of the case which are not in dispute. The petitioner received on the 7th November, 1977 the impugned notice and he appeared before the authority concerned on 15th November, 1977 and prayed for adjournment and then again on 17th November, 1977 he asked for adjournment on the ground of his illness. It was only on 29th November, 1977 which was the third day of appearance before the Revenue Officer and when hearing was in progress that he made an application before the respondent No.5 for the determination whether the land is irrigated or not and informed this fact to the Revenue Officer on the very same date. Till this date he was sitting tight. It is crystal clear that this application u/s 14N of the Act was an after-thought on the part of the writ petitioner to delay the proceeding u/s 14T of the Act. If he was bona fide in pursuing this case then he ought to have rushed to the respondent No.5 immediately on receiving the impugned notice on 7th November, 1977 and would have placed this fact before the Revenue Officer on very first date of appearance, i.e., the 15th November, 1977. I find that the Original Writ Petitioner had not come to this court with clean hand and, as such, the writ application must fail.

I, accordingly, discharge the Rule and vacate all interim orders. There will be no order as to costs.