

(2000) 07 CAL CK 0040

Calcutta High Court

Case No: C.O. No. 1920 of 1999

Kartick Bagdi and Others

APPELLANT

Vs

Bidyut Kumar Ray and Others

RESPONDENT

Date of Decision: July 14, 2000

Acts Referred:

- Constitution of India, 1950 - Article 227
- West Bengal Land Reforms Act, 1955 - Section 54

Citation: 105 CWN 33

Hon'ble Judges: Bhaskar Bhattacharya, J

Bench: Single Bench

Advocate: Jiban Ratan Chatterjee and Syed Shamsul Arefin, for the Appellant; Malabika Roy, for the Respondent

Judgement

Bhaskar Bhattacharya, J.

This revisional application under Article 227 of the Constitution of India is at the instance of respondents before the appellate authority u/s 54 of the West Land Reforms Act and is directed against order dated January 13, 1999 passed by the District Land and Land Reforms Officer, Burdwan in Appeal Case No. 26 of 1998 thereby reversing the order dated October 12, 1992 passed by the B.L. & L.R.O. Khandaghosh Burdwan in Case No. 1 of 1992-93. Being dissatisfied with the order of B.L. & L.R.O., the present petitioners in the past preferred an appeal before the appellate authority and the appellate authority set aside that order and directed the B.L. & L.R.O. concerned to decide afresh the question of bargadarship after taking evidence from the adjoining cultivators.

2. As per order of remand, the B.L. & L.R.O. concerned after taking evidence of the adjoining cultivators merely came to a finding that the present petitioners were the actual cultivators of the land for the disputed year and thus held that those persons should be treated as bargadars.

3. Being dissatisfied, the opposite parties preferred a revisional application under Article 227 of the Constitution of India before this Court which was ultimately disposed of by Samanta, J., by permitting the opposite parties to prefer an appeal before the appellate authority within two months from the date of disposal of the said revisional application.

4. Pursuant to the liberty given by Samanta, J., the opposite parties preferred an appeal before the appellate authority and by the order impugned herein, the said appellate authority has set aside the order passed by the B.L. & L.R.O. and has remanded the matter back to the B.L. & L.R.O. for deciding whether the petitioners used cultivate the land and to decide the question of bargadarship afresh.

5. Being dissatisfied, the petitioners have, come up in this application under Article 227 of the Constitution of India.

6. Mr. Chatterjee, the learned Counsel appearing on behalf of the petitioners has seriously contended that in view of the earlier order passed by the appellate authority directing the B.L. & L.R.O. to decide the question of cultivation after taking evidence from the adjoining cultivators, the said B.L. & L.R.O. has not committed any illegality in arriving at the finding that the petitioners are bargadars of the land.

7. I am unable to accept the aforesaid contention of Mr. Chatterjee.

8. It is rightly pointed out by the appellate authority that merely because some persons are cultivating the property, that fact alone will not make them bargadars unless they can prove that they used to deliver Bhag produce to the owners of the land as required under the West Bengal Land Reforms Act. In the absence of any evidence and any such finding recorded by the B.L. & L.R.O. concerned, the names of the petitioners cannot be recorded as bargadars. Therefore, the appellate authority below rightly remanded the matter back to the B.L. & L.R.O. concerned for arriving at a just decision after considering all the ingredients which the bargadars are required to prove.

9. I, thus find no reason to interfere with the order passed by the appellate authority remanding the matter back to the B.L. & L.R.O. concerned. This revisional application is, therefore, without any substance and is dismissed.

10. In the facts and circumstances, there will be no order as to costs.

11. Let the affidavit-in-opposition be kept with the record.

12. In view of the disposal of the main revisional application, the other application being C.A.N. No. 4314 of 2000 has become infructuous and the same is disposed of accordingly. If xerox certified copy of the order is applied for, the office will supply the same within a week from the date of application.