

(1981) 01 CAL CK 0015

Calcutta High Court

Case No: C.R. No. 12997 (W) of 1976

Jagadish Chandra Chowdhury
and Another

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision: Jan. 14, 1981

Acts Referred:

- West Bengal Land Reforms Act, 1955 - Section 1, 1(3), 14T

Citation: 85 CWN 373

Hon'ble Judges: G.N. Roy, J

Bench: Single Bench

Advocate: Bimal Kumar Dutt, for the Appellant; Tapan Kumar Sen Gupta, for the Respondent

Final Decision: Dismissed

Judgement

G.N. Roy, J.

In this Rule, the initiation of a proceeding for review of an adjudication made u/s 14T of the West Bengal Land Reforms Act in Case No. 226 (Kumargunj), 1976 by the Revenue Officer, Balurghat Settlement Camp and the notice issued to the petitioners for the aforesaid purpose, are under challenge. The petitioners contend that u/s 14T of the West Bengal Land Reforms Act an adjudication had already been made by the competent Revenue Officer and the petitioners and the members of their family were allowed to retain some lands in accordance with the provisions of the West Bengal Land Reforms Act. The petitioners contend that thereafter the Revenue Officer subsequently wanted to reopen such adjudication and review the same without any authority of law. Mr. Dutt, the learned Counsel appearing for the petitioners contended that u/s 14T a Revenue Officer had jurisdiction to decide the ceiling land of the petitioners and the members of their family but when Chapter II B of the West Bengal Land Reforms Act containing Section 14T was enforced there was no provision for review. The power of review was added subsequently by

amending the provisions of section 14T and new subsection, namely, sub-section 3A was added to section 14T by which the Revenue Officer was empowered to review the adjudication already done u/s 14T. Mr. Dutt contended that sub-section (3) of Section 1 makes it clear that ;

Section 1 of the West Bengal Land Reforms Act would come into force at once but the remaining provisions of the Act, in whole or in part should come into force on such date or dates and in such district or part of a district as the State Government may from time to time by notification in the Official Gazettes specify.

Mr. Dutt submitted that sub-section (3) of section 1 therefore makes it clear that all the provisions of the West Bengal Land Reforms Act, 1955 were not intended to be enforced all at a time but the Legislature intended that the remaining provisions either in whole or in part should be enforced from time to time as and when the State Government would feel the necessity of enforcing such provisions and the State Government would have to issue notification in the official Gazette specifying enforcement of such provisions either in whole or in part. Mr. Dutt contended that it was not disputed by any one that section 14T was there in Chapter 11B which was inserted by the West Bengal Land Reforms Amendment Act, 1971 and then by the West Bengal Land Reforms Amendment Act, 1972 with retrospective effect from February, 1971. Therefore, there would be no difficulty in enforcing Section 14T as it stood in terms of the said West Bengal Land Reforms Amendment Act 1971-1972. But sub-section 3A was sought to be added subsequently by an amendment of the West Bengal Land Reforms Act but no notification for enforcing such amended provision of Section 14T or more precisely the said added sub-section 3A of Section 14T was given by the State Government in terms of the provisions of Section 1 (3) of the West Bengal Land Reforms Act. Mr. Dutt contended that in the aforesaid circumstances, sub-section 3A of Section 14T had no manner of application so long the required notification u/s 1 (3) was not given by the State Government.

2. The learned Counsel for the State however disputed the said contentions of Mr. Dutt and submitted that when Chapter MB was enforced containing various sections, namely, Sections 14J to 14Y, all the said sections including Section 14T were enforced and it was not necessary to give further notification simply because section 14T had been amended subsequently by incorporating sub-section 3A. He also submitted that in the instant case, the petitioners appeared before the concerned Revenue Officer in terms of the notice issued to the petitioners in connection with the said review proceeding but the petitioners took time on the ground of health but thereafter moved the instant writ petition challenging the legality and validity of the said review proceeding. Mr. Sen Gupta contended that when the petitioners had submitted to the jurisdiction of the Revenue Officer, they were not permitted to question the jurisdiction later on and on that score also the writ petition should be dismissed. The learned counsel for the petitioners, however disputed the said contentions of the learned Counsel for the State that the petitioners had really

submitted to the jurisdiction of the Revenue Officer and he further contended that in any event there could not be any estoppel against the petitioner because the Revenue Officer inherently lacked jurisdiction and jurisdiction could not be conferred by consent.

3. It is not necessary to decide the second contention raised by the learned Counsel for the State because in my view, the Revenue Officer had ample jurisdiction to initiate the said review proceeding and as such there is no occasion to quash the said proceeding, on the footing that the initiation of the said proceeding was completely without jurisdiction. The West Bengal Land Reforms Act 1956 was a piece of conditional legislation and the Legislature had thought it desirable not to enforce all the provisions of the West Bengal Land Reforms Act at a time but to enforce the provisions of the Act either in whole or in part from time to time as and when the State Government thought it expedient to enforce such provisions by giving notification in the Official Gazette. It is one of the recognised principles of legislations that the Legislature does not always enforce the entirety of a particular Act or some of the provisions of an Act at a time but keeps some of the provisions of an Act or the Act itself in abeyance to be enforced in future. When it is not possible to provide specifically the expediency of enforcement of different provisions of a statute at different dates in future, the Legislature delegates its power to an authority to decide such expediency and to enforce the provisions of the Statute at a later date. Such practice has been followed by the Legislature from earliest times and a Legislation of this kind is known as conditional legislation. Under sub-section (3) of section 1 of the West Bengal Land Reforms Act, it was a requirement of the legislation that date for enforcing the remaining provisions of the West Bengal Land Reforms Act is to be specified by the State Government in the Official Gazette but once such enforcement of a section has been made, in my view, there is no further necessity under sub-section (3) of section 1 to give further notification in the Official Gazette for enforcing any subsequent change to the provision of such section. It is an admitted case of both the parties that section 14T was lawfully enforced. Therefore, there is no longer any necessity of giving notification under sub-section (3) of section 1 for incorporating any amendment to the said section 14T. In my view, Mr. Dutt is not at all justified in contending that whenever any change is brought about to any section by incorporating amendments, a notification u/s 1(3) is required to be given specifying the time from which such amendment is to be enforced. Accordingly, the review proceeding initiated by the Revenue Officer is not without jurisdiction and the Rule, therefore, fails and is discharged. There will be no order as to costs. By way of abundant caution it is made clear that this court has not expressed any opinion as to the justification of initiating the review proceeding and/or on the merits of the respective cases of the parties.