

(1955) 03 CAL CK 0023

Calcutta High Court

Case No: Civil Revision Case No. 100 of 1955

Debendra Nath Sen

APPELLANT

Vs

Bhagchas Conciliation Board,
Joynagar and Others

RESPONDENT

Date of Decision: March 14, 1955

Acts Referred:

- West Bengal Bargadars Act, 1950 - Section 7

Citation: 59 CWN 919

Hon'ble Judges: S.R. Das Gupta, J

Bench: Single Bench

Advocate: S. Das and Dwijendra Nath Basu, for the Appellant;

Judgement

S.R. Das Gupta, J.

In this application the petitioner is asking to an order for quashing certain orders passed by the Bhagchas Conciliation Board, Jaynagar dated the 16th December, 1954. The matter arises in this way. The opposite parties Nos. 8 to 11 were the Bhagchasis of the lands belonging to the petitioner. It is stated in the petition before me that the practice was for the Bhagchasis to stack the produce of the land in respect of which they were the Bhagchasis in the Khamar of the petitioner. On the 16th December, 1954. the Bhagchasis made an application to the Bhagchas Conciliation Board, Joynagar, for settlement of their alleged dispute with the petitioner and obtained on the same date an interim order from the said Board whereby it was ordered that pending the decision of the said dispute by the Board the produce of the land in question would be kept in the custody of one Benoy Krishna Gharami, who was appointed the receiver by the Board. The said order was an ex parte order made on the application of the opposite parties. The Board did not give any notice to the petitioner before making the said order. The petitioner got notice from the said Board wherein it was stated that as dispute has arisen between the petitioner and the opposite parties the same has been fixed for settlement on

the 27th January, 1955, and in the said notice it was further stated that pending the decision of the case the produce of the land was to be kept in the custody of one Benoy Krishna Gharami and he was appointed receiver for that purpose. The notice further stated that if within seven days after receiving notice from the said custodian the petitioner do not take away his legitimate share then the receiver or the opposite parties would have no responsibility in respect of the same. It is alleged that on receipt of that notice the petitioner became aware of the fact that an application had been made before the Bhagchas Conciliation Board, Joynagar, and that an interim order was obtained from it. The present petition has been made for quashing the order of the Board whereby the Board has ordered the produce to be kept in the custody of one Benoy Krishna Gharami until the final decision of the case and appointed the said Gharami as receiver for that purpose and dispensed with the responsibility of the receiver and of the opposite parties in respect of the plaintiff's share of the said produce after the lapse of seven days from the receipt of a notice from the said custodian.

2. In my opinion the Board has no jurisdiction to make such an order. Section 7 of the West Bengal Bargadars Act, 1950, provides that every dispute between a bargadar and the owner, whose land the bargadar cultivates, with regard to the matters mentioned in the said section, shall be decided by a Board established for the local area within which such land is situated. The said section only empowers the Board to decide the disputes between a Bargadar and the owner of the land. There is nothing in the said section or in the Act empowering the Board to make an interim order of the nature as made in the present case. The rules framed under the said Act also do not give any such power to the Board. The rules lay down the procedure to be followed by the Board when it receives an application. Rule 7 provides that on receipt of an application for settlement of any matter under the Act, the Chairman of the Board shall fix a date and place for consideration of the application and intimate the same to the other member of the Board. The said rule further provides that he shall cause a notice to be served on the Bargadar and owner concerned in such manner as he may think fit to give them an opportunity of being heard on the date so fixed. The said rules framed under the West Bengal Bargadars Act, 1950, only empower the Board to decide the disputes and lay down the procedure which has to be followed for that purpose. Neither the provision of the Act nor the rules give any power to the Board to make an interim order of the nature as made in the present case. In my opinion the interim order which was made by the Board in this case was clearly without jurisdiction and should be quashed.

3. I, therefore, make an order that the order passed by the Bhagchas Conciliation Board, Jaynagar, on the 16th December, 1954, giving direction that pending the final decision of the dispute before the Board between the parties the custody of the produce of the land in question to remain in the custody of the said Benoy Krishna Gharami and appointing the said Benoy Krishna Gharami as receiver for that purpose and exempting the opposite parties and the receiver from liability in

respect of the share of the produce of the petitioner is quashed and the Board is directed to proceed according to law. The Rule is, therefore, made absolute and the petitioner is entitled to costs of this application from the opposite parties Nos 2 to 11.