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29.05.2023
Ct. No. 5
Rup/adeb

W.P.A. 12867 of 2023

Rabindra Nath Naskar
Vs.
The State of West Bengal & Ors.

Mr. Mayukh Mukherjee
Mr. Kaustav Mukherjee
Mr. S. Mondal

....for the petitioner

Mr. Rabindra Narayan Datta
Mr. Hare Krishna Halder

...for the State

The petitioner has filed the present writ application challenging the notice dated 18th May, 2023 issued by BL & LRO which was received by the petitioner on 21st May, 2023.

Counsel for the petitioner submits that the BL& LRO has issued the said notice without giving any opportunity of hearing and violates the provision of Section 4C(2) of the West Bengal Land Reforms Act, 1955. Counsel for the petitioner submits that the petitioner is the owner of the property and the pond is situated in the centre of the property but without considering the said aspect, the BL & LRO had issued the said notice.

Learned Counsel for the respondents submit that the writ petition filed by the petitioner is not maintainable as any order passed in the West Bengal Land Reforms Act, 1955 is appealable before the Land Reforms and Tenancy Tribunal. Learned Counsel for the respondents submits

that as writ petition is not maintainable and as such no order can be passed.

Considering the submission made by the respective parties and perused the materials on record Section 4C(2) reads as follows:-

"4C(2)-On receipt of such application, the Collector may, after making such inquiry as may be prescribed and after giving the applicant or the persons interested in such land or affected in any way an opportunity of being heard, by order in writing either reject the application or directs such change, conversion or alteration, as the case may be, on such terms and conditions as may be prescribed:

Provided that where the application as stated in sub-section (1) relates to permission or change, conversion or alteration of any plot of land having water body of any description or size, the Collector shall not make any order, unless he has made a prior consultation in writing with such appropriate department of the State Government as may be prescribed and such order of the Collector may, depending on the circumstances of case, include an order for creation of compensatory water body of equal or larger size of such water body which is required to be changed, converted or altered."

Admittedly, there is no notice of hearing was given and no enquiry has been conducted. Accordingly, this Court find that the impugned notice issued by the BL & LRO dated 18th May, 2023 is in violation of Section 4C (2) of the West Bengal Land Reforms Act, 1955. The notice dated 18th May, 2023 stands set aside. BL & LRO has liberty to take appropriate steps in accordance with law after giving notice to all concerned authorities in compliance of Section 4C(2) of West Bengal Land Reforms Act, 1955.

(Krishna Rao, J.)