

Form No. J(2)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

WPLRT No. 94 of 2025

Sri Debapriya Nanda
Vs.
The State of West Bengal and others

For the petitioner : Mr. Bikash Ranjan Bhattacharya, Sr. Adv.,
Mr. S. P. Pahari, Adv.

For the State : Mr. Nilanjan Bhattacharya, Sr. Standing Counsel,
Mr. Suman Banerjee, Adv.

Heard on : 23.07.2026.

Judgment on : 23.07.2026.

Sabyasachi Bhattacharyya, J.:-

1. The present writ petition has been preferred against an order whereby the original application filed by the writ petitioner, alleging delay in disposal of a representation of the petitioner by the Revenue Officer, was dismissed outright on the ground that by the said representation, the writ petitioner had sought to alter the options given in Form 'B' for retention of the lands-in-question under the West Bengal Estates Acquisition Act, 1953 (in short "the 1953 Act") after a considerable period of delay.
2. Learned senior counsel appearing for the writ petitioner argues that in similar circumstances, this Court had, in an unreported judgment in the matter of *Amar Nath Am and others Vs. The State of West Bengal and*

others (WPLRT 142 of 2025), had decided that delay cannot be a ground for refusal of such prayer, particularly if possession is not taken under Section 10(2) of the 1953 Act.

3. Learned senior counsel further submits that, as held by the Hon'ble Supreme Court in the case of *West Bengal Govt. Employees (Food & Supplies Coop. Housing Society Ltd. and others Vs. Sulekha Pal (Dey) and others*, reported at (2003) 9 Supreme Court Cases 253, there cannot be any merit in an objection in such cases based on laches and delay in respect of retention.
4. In the present case, it is argued, in a previous round of litigation, the matter came up to the West Bengal Land Reforms and Tenancy Tribunal, when the Tribunal had directed the consideration of the case of the petitioner.
5. However, thereafter, on the premise of a report given by the Block Land and Land Reforms Officer (BL & LRO), the representation was being delayed.
6. Learned Senior Standing Counsel, appearing for the State, submits that in the present case, as per the report of the BL & LRO, Bhagwanpur-II, District- Purba Medinipur, it was intimated that the definition of encumbrances as laid down in Section 2(h) of the 1953 Act provides that it does not include the rights of a raiyat or of an under-raiyat or of a non- agricultural tenant and the rights of intermediary in his retained land but includes all rights or interests of whatever nature, belonging to the intermediaries or other persons in the lands comprised in estates or to the produce thereof.

7. It is further submitted that by way of the representation, the writ petitioner seeks virtually an exchange of the lands originally opted to be retained by his predecessor-in-interest, which is not permissible in law.
8. However, upon a careful consideration of the ratio laid down in *West Bengal Govt. Employees (Food & Supplies Coop. Housing Society Ltd. (supra)*, we find that since the authorities of the State therein had not lawfully and factually dispossessed the applicants, who were the heirs of the intermediary (as in the present case), from the *khas* possession of the lands-in-question, it was held that there could not be any merit in an objection based on laches and delay in respect of retention.
9. The learned Tribunal acted contrary to the ratio laid down in the said judgment and dismissed the original application on the ground of delay.
10. Even otherwise, the right of retention is inbuilt in the concept of vesting under the 1953 Act and till the possession of the land is taken by the State, such right is not extinguished, despite the legal connotation of Section 4(1) of the 1953 Act, which provides that vesting happens as soon as a notification under the said Section is published.
11. We take note of the settled proposition of law that despite Section 4(1) being conclusive as to vesting, such conclusiveness is subject to the right of retention of the intermediaries and their legal heirs.
12. Thus, by reliance on the aforesaid propositions of law, we find that the learned Tribunal palpably erred in law in dismissing the representation of the petitioner on the sole ground of delay.
13. Accordingly, the impugned judgment cannot be sustained.

14. Hence, WPLRT No. 94 of 2025 is allowed on contest, thereby setting aside the impugned judgment dated April 15, 2024 passed by the Third Bench of the West Bengal Land Reforms and Tenancy Tribunal in OA No. 451 of 2018 (LRTT) and directing the concerned BL & LRO, Bhagwanpur-II, District Purba Medinipur, to allow the representation of the writ petitioner, thereby permitting the petitioner to retain his *bastu* land in exchange of other land which was originally offered to be retained by his predecessor-in-interest, subject to the total quantum of land retained by him being within the statutory ceiling limit, by treating such alteration to relate back to the date of submission of the original 'B' Form by the petitioner's predecessor-in-interest, being the original intermediary.
15. It is expected that such exercise by the concerned BL & LRO shall be completed as expeditiously as possible, positively within one month from the date of communication of this order to the BL & LRO.
16. There will be no order as to costs.
17. Urgent certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)