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SK
Ct. No. 12
23.09.2020

**C.O. No. 1190 of 2020
CAN 1 of 2020
(Via Video Conference)**

**Helun Shaikh
Vs.
Nurul Alam & Anr.**

Mr. Soumyajit Bhatta ... For the petitioner.

The preemptor in a proceeding under Section 8 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as 'the said Act' in short) is the petitioner of the present application under Article 227 of the Constitution of India which is directed against the order dated February 15, 2020 passed by the learned Additional District Judge, Kandi, Murshidabad in Misc. Appeal No. 18 of 2016.

The learned trial Judge by the Order No. 21 dated March 29, 2016 allowed an application under Section 8 of the said Act filed by the petitioner.

The appeal Court below considering the decision of the Apex Court in the case of ***Barasat Eye Hospital & Ors. Vs. Kaustabh Mondal***, reported in **(2019) 14 SCALE 90** has reversed the said judgment and order of the learned trial Judge thereby dismissed the said application for pre-emption holding that the petitioner since has not deposited the entire consideration price

of the sale sought to be preempted the application for preemption is not maintainable.

The short deposit is admitted as such the ratio of law laid down in the aforementioned decision of the Hon'ble Supreme Court squarely applies in the present case.

The Appeal Court below therefore has not committed any error in allowing the said appeal.

The order impugned for the aforesaid reason does not call for any interference.

C.O. 1190 of 2020 is dismissed.

The connected urgency application being CAN 1 of 2020 is disposed of accordingly.

No order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)