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**W.P.L.R.T.72 of 2021
(Via Video Conference)**

**Amalendu Sen
Vs.
The State of West Bengal & Ors.**

Mr. Santi Pada Pahari.

...for the Petitioner.

Md. T. M. Siddiqui.

....for the State.

Though the instant writ petition is filed challenging the order of the tribunal passed on 19th August, 2021 in O.A.No.510 of 2021, but after hearing the respective Counsels appearing for the respective parties, we decided to dispose of the writ petition with the following observations;

Pursuant to the decree passed by the Civil Court, the petitioner approached the Block Land and Land Reforms Office for correction of the record of right and a proceeding was initiated thereupon. Since the said authority was keeping the matter pending for all time to come, the approach was made to the Land Reforms Tribunal for a direction to dispose of the said proceeding within the time frame.

The authority proceeded with the said proceeding and the first order which was passed

would reveal that the service was directed upon the applicant and all interested persons. On the second day, both the parties appear and after hearing and examining the documents, the authority found that further hearing is required and in fact fixed the date on 12th August, 2014. Subsequently on two such occasions, the writ petitioner could not appear and ultimately the authority dismissed the matter for default meaning thereby, there was no adjudication made in this regard.

Subsequently, an application was made for recalling an order dismissing the proceeding for default which has not been attended to and/or entertained by the said authority. Because of the inaction on the part of the authority to entertain the application for recalling the order, the tribunal was approached and by the impugned order, the same is dismissed as the petitioner had the remedy available under Section 54 of the West Bengal Land Reforms Act by way of an appeal. The tribunal was of the view that since the order dismissing the proceeding for default is amenable to be challenged by way of an appeal under Section 54 of the said Act, the tribunal application is not entertainable in view of the embargo under

Section 10(3) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.

We have given anxious consideration to the aforesaid section and without going into the nuances of the law applicable in this regard, we feel the instant writ petition is to be disposed of *ex debito justitiae* i.e. for the ends of justice.

We have perused the order No.2 wherefrom it appears that the parties including the writ petitioner made substantive arguments and submissions before the said authority and since the arguments could not be completed, the next date for hearing was fixed. Unfortunately, the writ petitioner could not appear because of the medical reasons as he was suffering from Cancer and the documents in this regard has been annexed to the writ petition. Though there is a provision for an appeal provided under Section 54 of the said Act as it does not make any distinction between the order passed on merit or on default, yet there is no fetter on the part of the writ Court to pass an order for securing the ends of justice.

We further noticed that once the matter was heard substantially and the further hearing was fixed on the other date, the authority ought to have decided the matter on merit on the basis of

the materials placed before it and the arguments so advanced and should not have embarked its journey for disposal of the proceeding for default. Though the Code of Civil Procedure does not apply to such proceeding, but the principles thereon can be made applicable and once the substantial argument has been advanced, the order of dismissal for default should not have been invited. It would be an idle formality, if we relegate the writ petitioner to statutory forum provided by way of an appeal and, therefore, in order to expedite the matter and to render the justice, we set aside the order of the Block Land and Land Reforms Officer dated 26th August, 2014. The proceeding No.51 of 2002 is restored to its original file and number. The Block Land and Land Reforms Officer, Contai-II, Deshpran Block is directed to fix a date after giving notice to all interested parties within one month from date. The endeavour shall be shown to dispose of the same within three months from the date of the appearance of the parties after notice in accordance with law.

It goes without saying that we had no occasion to go into the merit of the claim made by the petitioner in the proceeding initiated before the said authority and, therefore, any observations

touching thereupon shall not have any persuasive effect as the said authority shall decide the same independently and in accordance with law.

Accordingly, the tribunal application is disposed of.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)