

Dd 05 04.09.2023

WPLRT 738 of 2003

with

I.A NO: CAN 1 of 2021

I.A NO: CAN 2 of 2021

State of West Bengal & Ors.

Vs.

Ramananda Bhanja

Mr. Lalit Mohan Mahata, AGP

Mr. Ziaul Haque, Advocates

... ... For the Petitioners

Mr. Mrinal Kanti Ghosh, Advocate

... ... For the Respondent

In re : I.A NO: CAN 2 of 2021

CAN 2 of 2021 is an application seeking condonation of delay in filing the application for restoration.

For the ends of justice and considering the pleadings in the application, delay in filing the application for restoration is condoned.

CAN 2 of 2021 is **allowed**.

In re: I.A NO: CAN 1 of 2021

CAN 1 of 2021 is an application for restoration. For the ends of justice and considering the pleadings in the application for restoration, CAN 1 of 2021 is **allowed**.

Order dated June 27, 2019 dismissing the writ petition is recalled. WPLRT 738 of 2003 is restored to its file and number.

In Re: WPLRT 738 of 2003

The writ petition is at the behest of the State. State is aggrieved by the order dated July 14, 2000 passed by the West Bengal Land Refoms and Tenancy Tribunal in TA 304/306 of 1999(LRTT).

By the impugned order, the Tribunal, directed the concerned Block Land and Land Reforms Officer to draw a proceeding under Section 50 of the Land Reforms Act, 1955 and review the preparation of record of rights in respect of all the land left by Harihar Bhanja, the father of the private respondent, by applying the provisions of the Hindu Succession Act and ignoring the will and correct the record of rights in favour of all the legal heirs of Harihar in equal share. It also provided that the land transferred by the private respondent should be treated as the land falling in his share.

Learned advocate appearing for the State submits that a will was left behind by Harihar Bhanja which was probated. The Tribunal erred in directing the will of Harihar Bhanjal, which was probated, to be ignored and that, the provisions of Hindu Succession Act be applied.

Learned advocate for the private respondent submits that, the High Court on an earlier occasion directed filing of Form-‘B’, which necessarily means that heirs and legal successors are entitled to inherit the property of Harihar Bhanja notwithstanding the will.

The will of Harihar Bhanja stands probated. Once probate is granted, the devolution of the property of Harihar Bhanja will be guided in accordance with the will that was probated. Therefore, in our view, the Tribunal erred in directing the authorities to ignore the will of Harihar Bhanja which was probated and to correct the record of rights in favour of the heirs of

Harihar Bhanja in equal share, in accordance with Hindu Succession Act, such direction is set aside. All other directions in the impugned order will remain.

WPLRT 738 of 2003 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)