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**16.05.
2023**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WPLRT 188 of 2022

Basudeb Mondal

Vs.

The State of West Bengal and others.

**Mr. Prantick Ghosh,
Mr. Siddhartha Sarkar,
Mr. Prasad Bhattachariyya.**

... for the petitioner.

**Mr. Biplab Guha,
Mr. Kausik Roy,
Mr. Rajat Kumar Dhar.**

... for the respondent nos. 5 to 8.

By the impugned order an application for transposition of the respondent no. 12 in the category of the applicant in the tribunal application has been dismissed on the premise that the moment the applicant did not recognize the respondent no. 12 as purchaser of the property, it raises a serious doubt on his title thereto.

The tribunal application was taken out by the deceased applicant without impleading the respondent no. 12 therein, who later on approached the Tribunal seeking his impleadment, which was eventually allowed on the basis of his stand that he is a purchaser from the applicant. The moment his addition is allowed as a transferee of the applicant, even if the proceeding is initiated by the erstwhile owner, any decision or order would enure to the benefit of the purchaser.

Merely the purchaser was not impleaded at the time of initiation of the proceeding before the Tribunal does not mean that his right, title and interest based upon the valid deed cannot be recognized in the eye of law nor can

be given effect to.

We noticed that the original applicant died on 22nd October 2019 without leaving any heirs and legal representatives. An application was taken out within the residuary clause of the Limitation Act, which cannot be said to invite any abatement to the proceeding. The moment the respondent no. 12 was impleaded as a transferee of the original applicant, any order that would be passed in a proceeding would vitally affect his right, title and interest in respect of the subject dispute.

Therefore, we do not find any justification in not transposing the respondent no. 12 in the category of the applicant, as he is the person, who can pursue the cause of action in relation to the subject property.

The order impugned is, thus, set aside. The application for transposition is allowed. The respondent no. 12 shall be transposed to the category of the original applicant.

The office of the Tribunal is directed to make necessary amendment in this regard in the cause title of the tribunal application.

We expect that the Tribunal would take up the application and bring to its logical conclusion within six months from the date of communication of this order after affording an opportunity of hearing to the respective parties.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

