

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

RVW 179 of 2024

With

IA No.: CAN 1 of 2024

With

IA No.: CAN 2 of 2024

Rajarhat Fishermen's Co-operative Society Limited

Vs.

The State of West Bengal and Ors.

In

W.P.L.R.T. 584 of 2006

Rajarhat Fishermen's Co-operative Society Limited

Vs.

The State of West Bengal and Ors.

For the petitioner/ Review applicant	:Mr. Surajit Nath Mitra, Ld. Sr. Advocate Mr. Saurabh Guha Thakurata, Advocate Ms. Mallika Roy Chowdhury, ADvocate Ms. Nilanjana Sarkar, Advocate, Mr. Abhratanu Sarkar, Advocate
For the State	: Mr. Lalit Mohan Mahata, Ld. AGP Mrs. Sujata Mukherjee, Advocate

Heard & Judgment on : September 6, 2024

DEBANGSU BASAK, J.:-

1. IA No.: CAN 1 of 2024 is an application for condonation of delay.
2. Review applicant approached the Supreme Court against the judgment and order under review. Such Special Leave Petition was disposed of by

an order dated March 15, 2024 permitting filing of an application for review. Review applicant in review was filed subsequent thereto.

3. In such circumstances, for the ends of justice, we condone the delay in making and filing the application for review by the review applicant.
4. IA No.: CAN 1 of 2024 is disposed of accordingly.
5. IA No.: CAN 2 of 2024 is an application for appropriate order in the review petition.
6. IA No.: CAN 2 of 2024 is disposed of on the consent of the parties to hear and dispose of the review finally.
7. Review applicant seeks review of the judgment and order dated October 10, 2013 passed in W.P.L.R.T No.584 of 2006.
8. Learned Senior Advocate appearing for the review applicant draws the attention of the Court to paragraphs 22 and 23 of the judgment and order dated October 10, 2023. He submits that, in paragraph 22 of the judgment and order under review, the Court noted that the review applicant was claiming rights through Suburban Agriculture Dairy & Fisheries Private Limited (SADFPL). He submits that, review applicant was muted in the record of rights in respect of the plot concerned. State was, therefore, aware of the right, title and interest of the review applicant in respect of the plot concerned.
9. Referring to Section 10 of the West Bengal Estates Acquisition Act, 1953, learned Senior Advocate appearing for the review applicant submits that, as a person in possession, taking such right to be the basic minimum

right of the review applicant, since the name of the review applicant stood muted in the record of rights in respect of the plot concerned, review applicant was entitled to a notice under Section 10(2) of the Act of 1953. Such notice was not given to the review applicant.

10. Drawing the attention of the Court to paragraph 23 of the judgment and order under review, learned Senior Advocate appearing for the review applicant submits that, review applicant was not issued a notice under Section 10(2) of the Act of 1953.
11. Learned Senior Advocate for the review applicants submits that, absence of notice under Section 10(2) of the Act of 1953 vitiates the entire proceedings. Therefore, according to him, there is an error apparent on the face of the record requiring the review of the judgment and order of which review is sought.
12. Learned Senior Advocate appearing for the review applicant draws the attention of the Court to the order dated March 15, 2024 passed in the Special Leave Petition filed by the review applicant directed against the judgment and order under review. He submits that, the Special Leave Petition was withdrawn with liberty to file a review.
13. State is represented.
14. It is trite law that an appeal cannot be allowed under the garb of the review.

15. In the facts and circumstances of the present case, issue of Section 10 both sub-section (1) and sub-section (2) thereof of the Act of 1953 were elaborately dealt with by us in the judgment and order under review.
16. Notice under Section 10(2) of the Act of 1953 was issued to SADFPL. Issue regarding Section 10 of the Act of 1953 was settled in diverse proceedings between the State and SADFPL. Review applicant claims that, it purchased a plot of land from SADFPL. Issue with regard to Section 10 both sub-section (1) and sub-section (2) stood settled between SADFPL and the State prior to the purchase made by the review applicant from SADFPL. Review applicant is, therefore, bound by the decision with regard to Section 10 of the Act of 1953 between SADFPL and the State. Review applicant cannot be allowed to reopen such issues.
17. There being no error on the face of the record, we find no ground to entertain the memorandum of review.
18. Accordingly, **RVW 179 of 2024** is dismissed without any order as to costs.

(Debangsu Basak, J.)

19. I agree.

(Md. Shabbar Rashidi, J.)