

S/L 8
21.8.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2952 of 2024

Debasish Gharami

Vs.

Rajib Halder & Ors.

Mr. Sandip Das

...for the Petitioner.

The instant application under Article 227 of the Constitution of India is at the instance of the pre-emptor in a proceeding under Section 8 of the West Bengal Land Reforms Act, 1955.

The petitioner had filed an application to pre-empt the sale dated July 3, 2017 in favour of the pre-emptees, the opposite party no.1 herein. The said application was registered before the 1st Court of learned Civil Judge (Junior Division), Diamond Harbour being Misc. Pre-emption Case No.20 of 2017.

The learned Trial Judge by the judgment and order dated March 10, 2022 had dismissed the said pre-emption application on the ground that the pre-emptor did not deposit the entire consideration money along with the application for pre-emption.

The pre-emptor had preferred an appeal against the said judgment and order of the learned Trial Judge being Misc. Appeal No.15 of 2022.

The learned Additional District Judge, Diamond Harbour by the order impugned being Order No.15 dated February 12, 2024 has dismissed the said appeal.

In view of the judgment of Hon'ble Supreme Court in the case of ***Barasat Eye Hospital & Ors. vs.***

Kaustava Mondal reported in **(2019) 19 SCC 767**, the issue is no longer *res judicata*.

The order impugned therefore does not call for any interference. CO 2952 of 2024 is dismissed without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)