

Item No. 63

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03.07. 2024

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 3808 2022

**Sri Bholanath Das
Vs
Sri Avijit Samanta & Anr.**

Mr. Asis Chandra Bagchi,
Mr. Amitabha Roy ... for the petitioner.

1. Affidavit of service is filed and taken on record.
2. None appears on behalf of the opposite parties.
3. Challenge in this revisional application is the order allowing the preemptor to deposit the remaining consideration money within the meaning of provision of Section 8 of the West Bengal Land Reforms Act (hereinafter referred to 'WBLR Act'). The order was passed on 17.08.2022 by the learned Civil Judge (Junior Division), 3rd Court, Tamluk, Purba Medinipur in connection with J. Misc. Case13/2016.
4. By the order impugned, learned Judge disposed of two applications dated 03.03.2022 with a prayer for depositing the remaining amount of sale deed and another application filed on the same date for amendment by way of incorporating the statement of depositing remaining amount in the petition claiming preemption.

5. Learned counsel appearing on behalf of the petitioner has submitted that learned Judge is not empowered to grant further time to deposit the remaining consideration amount of sale deed within the meaning of provision of Sections 8 and 9 of the WBLR Act. In support of his contention, he referred to a judgment of Hon'ble Supreme Court in the Case of *Abdul Matin Mallick Vs. Subrata Bhattacharjee (Banerjee) and Ors. reported in 2022(3) Indian Civil Cases 641 (S.C.)*.
6. In this case, the application under Sections 8 (1) of the WBLR Act was filed and deposited a portion of the consideration amount along with 10% of that amount i.e. (Rs.50,000/- + Rs.5000) = 55000/- in total.
7. Issue before this Court whether preemptor can deposit a portion of the consideration money at the time of filling of application under Section 8 (1) of the WBLR Act.
8. The issue has been addressed by the Hon'ble Apex Court in *Abdul Matin Mallick (Supra)* in paragraph 7 as follows:

"7. Now, so far as the submission on behalf of the pre-emptors that they bonafidely believed that the sale consideration mentioned in the sale deed is in favour of the vendee, who is an outsider (outside the family) was higher than the actual sale consideration and therefore, they did not deposit the entire sale consideration with additional 10% of the sale consideration

alongwith the pre-emption application is concerned, it is to be noted that the aforesaid cannot be a ground not to comply with the condition of deposit as required under Section 8 of the Act, 1955. At the most, such a dispute can be the subject matter of an enquiry provided under Section 9 of the Act. As observed hereinabove, the enquiry under Section 9 with respect to the sale consideration in the sale deed would be only after the condition of deposit of entire sale consideration with additional 10% as provided under section 8 of the Act has been complied with."

9. The provision of Section 8(1) of the WBLR Act has clearly mandates that the application claiming preemption can only be filed on depositing of the consideration money together with further sum of 10% of that amount. Here in this case, admittedly preemptor/opposite party herein deposited a portion of amount at the time of filing application in violation of the mandate of provision of Section 8(1) WBLR Act.
10. Given facts and circumstances and also keeping an eye on the observation of the Hon'ble Apex Court in *Abdul Matin Mallick (Supra)*, I find gross irregularity in the order allowing the preemptor to deposit the remaining portion of amount in connection with J. Misc. Case13/2016.
11. On the same score prayer for amendment for incorporating the deposit of remaining amount has no legs to stand.
12. As a sequel, the order impugned stands set

aside.

13. With the above observation, the instant revisional application stands allowed.
14. Interim order, if any, stands vacated.
15. Connected applications, if there be any, also stand disposed of.
16. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.
17. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Bibhas Ranjan De, J.)