

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

W.B.L.R.T. 14 of 2025

**Smt. Minati Goswami and another
Vs.
The State of West Bengal and others**

For the petitioners	:	Mr. Shyama Prasad Purkait Ms. Moumita Mandal
For the State	:	Mr. Sk. Md. Galib Ms. Priyamvada Singh
For the respondent nos.5 & 14	:	Mr. Manoranjan Jana Mr. Radhasyam Maiti
Heard on	:	19.08.2025
Judgment on	:	19.08.2025

Sabyasachi Bhattacharyya, J.:-

1. After the hearing is concluded and the court is about to pass judgment, learned counsel for the private respondents, to whom it was made abundantly clear that the writ petition is going to be allowed, seeks to raise an objection to this court taking up the matter on the purported ground that a relative of one of us (Bhattacharyya, J.) had appeared at one stage in a different matter between the same parties.

2. However, we strongly deprecate such unsportsmanlike and unfair attitude of the learned Advocate for the private respondents, which should be beneath the dignity of any counsel to adopt.
3. We say so because after having come to know clearly that the court was going to pass an order against his client, the learned Advocate cites the appearance of the relative of one of us (Bhattacharyya, J.), that too in a completely different matter having no connection with the present writ petition.
4. Despite such previous matter being between the same parties, there is no nexus between the said matter and the present one.
5. Moreover, it is absurd that no objection was taken at the outset but while passing the final order, seeing that his client is going to lose the matter, learned counsel takes such an objection.
6. To us, it is shameful for a member of the Bar to take such plea at such a stage, since we are a part of the same system, that is, the Bar and the Bench work in tandem and an action like this, which is beneath the dignity of an Advocate, affects the court more than the concerned counsel.
7. In any event, we choose to turn down such belated attempt to take the matter off the board during the course of passing judgment, after counsel for the parties were heard at length.

8. Affidavit-in-opposition and affidavit-in-reply filed respectively by the private respondents and the writ petitioner be kept on record.
9. The matter arises out of an order of the Land Reforms and Tenancy Tribunal whereby the Tribunal affirmed an order of the Collector condoning the delay of about sixteen years in preferring an application under Section 9 of the West Bengal Acquisition of Home Stead for Agricultural Labourers, Artisans and Fishermen Act, 1975 (hereinafter referred to as “the 1975 Act”).
10. Learned counsel for the petitioner contends that under Section 9 of the 1975 Act, if there is any dispute on the question as to whether a land has vested in an occupier under the provisions of Section 4 of the 1975 Act, the matter shall be referred to the Collector, whose decision thereon shall be final.
11. Section 4 of the 1975 Act provides that where an occupier has been in possession of any land on the 26th day of June, 1975, then, if the land in his possession does not exceed .0334 hectare, such land, and if the land in his possession exceeds .0334 hectare, so much of such land as does not exceed .0334 hectare, shall stand acquired by the State Government and shall thereupon stand transferred to and vest absolutely in favour of such occupier.

12. The writ petitioner was declared to be such occupier by an order dated July 25, 2007 passed by the concerned BL & LRO (Block Land and Land Reforms Officer).
13. The private respondents, on the allegation that the dispute had not been disposed of by the BL & LRO, thereby committing contempt of a previous direction of the Land Reforms and Tenancy Tribunal, had approached the Tribunal for taking action for such contempt.
14. The learned Tribunal turned down the same, taking note of the fact that the proceeding had not only been initiated, giving rise to Miscellaneous Case no.62 of 2003, but had already been disposed of and as such no contempt lay.
15. The private respondents preferred a writ petition against such order of the Tribunal, which was also turned down by a coordinate Bench of this court by an order dated July 14, 2023 passed in WBLRT 38 of 2009.
16. While dismissing the said writ petition, the Division Bench observed, *inter alia*, that the BL & LRO acted in terms of the order dated August 7, 2010 and passing a final order; hence, it could not be said that the BL & LRO acted in contemptuous violation of such order, simply on the ground that there were grievances with regard to the order dated May 4, 2007 of the concerned BL & LRO.

- 17.** In such circumstances, the court observed that the writ petition should be dismissed.
- 18.** The writ court further observed that the order dated May 4, 2007, passed by the concerned BL & LRO disposing of Miscellaneous Case No. 62 of 2007, may or may not be justifiable and the writ petitioner might have grievances against the same which are to be ventilated “in accordance with law before an appropriate forum”.
- 19.** Learned counsel for the writ petitioner before us submits that merely by virtue of such observation, no right was created to prefer an appeal in favour of the private respondents.
- 20.** Citing the pendency of the said writ petition and another unconnected civil suit, the private respondents sought to explain the delay in preferring a challenge under Section 9 of the 1975 Act before the Collector.
- 21.** Although the said challenge was initially captioned as one under Section 54 of the West Bengal Land Reforms Act, 1955, subsequently the same was amended and labelled as a challenge under Section 9 of the 1975 Act.
- 22.** Learned counsel submits that although Section 9 does not contemplate any limitation period, the residuary provision in the Limitation Act should be applicable and as such, the challenge having been preferred after an inordinately long period of 16

years from the date of the impugned order, ought to have been turned down at the outset.

- 23.** However, the Collector condoned the delay by observing that the case should be admitted for adjudication of the “justifiableness” of the grievances of the appellants on merit as it is settled law that technicalities of limitation alone cannot bring the process of adjudication to an end.
- 24.** The Tribunal affirmed the said order by going one step further, observing that since no provision of limitation was engrafted in Section 9 of the 1975 Act, there was no scope for condonation of delay, and no application for condonation of delay was required to be filed at all.
- 25.** Learned counsel appearing for the private respondents opposes the writ petition and submits that in view of a strong case on merits having been made out, the learned Tribunal was justified in affirming the order of the Collector entertaining the challenge under Section 9 of the 1975 Act.
- 26.** It is further submitted that since Section 9 does not contain any limitation period, the challenge under Section 9 could not be said to have been time-barred.
- 27.** Upon a careful consideration of the submissions of the parties, we are unable to accept the contention of the private respondents.

- 28.** It is well-settled that even if no specific period of limitation is stipulated, a party cannot be permitted to take out a challenge under any statutory provision to any order passed under the said statute after an inordinate period of time, since valuable rights accrue in favour of the party enjoying the fruits of such impugned order in-between.
- 29.** There has to be a finality to litigation and, as such, an inordinate delay of 16 years in preferring the challenge ought to have been construed to be a sufficient ground for dismissing the challenge under Section 9 of the 1975 Act, if not otherwise, on the ground of equity, since the private respondents did not come with clean hands in preferring the challenge after long 16 years.
- 30.** Even otherwise, we are to consider as to what is the nature of a challenge under Section 9 of the 1975 Act.
- 31.** The language in which the said provision is couched is that if there is any dispute on the question as to whether a land has vested in an occupier under the provisions of Section 4 of the 1975 Act, the matter shall be “referred” to the Collector.
- 32.** A reference cannot be verbal, since the grounds of challenge as well as the nature of the order are to be disclosed while referring the matter to the Collector.
- 33.** As such, since neither a suit nor an appeal lies before the Collector, as both are creatures of statute, it has to be construed

that the reference to the Collector under Section 9 has to be by way of an application.

- 34.** The residuary provision in the Schedule of the Limitation Act, 1963, that is, the Article 137 thereof, provides the limitation period for any other application for which no period of limitation is provided elsewhere in the said Act.
- 35.** Such limitation period is stipulated therein as three years from when the right to apply accrues.
- 36.** It is to be noted that Section 29 (2) of the Limitation Act specifically provides that where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule of the Limitation Act, the provisions of Section 3 of the Limitation Act shall apply as if the said period was the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as and to the extent to which they are not expressly excluded by such special or local law.
- 37.** Thus, on a plain reading of Section 29 (2) of the Limitation Act, even if no specific limitation period is prescribed in a statute, by necessary implication, the provision of Section 3 shall apply as if such period were the period prescribed by the Schedule of the Limitation Act.

- 38.** Since no specific period of limitation for taking out a reference under Section 9 of the 1975 Act has been prescribed in the statute, it shall be deemed, on a composite reading of Section 29(2) and Article 137 of the Limitation Act, that the limitation for such application/reference will be three years from the date when the right to apply accrues.
- 39.** Since the order which has been challenged before the Collector under Section 9 was passed by the BL & LRO on July 25, 2007, the date of accrual of the right to apply arose on the self-same date, since the private respondents, who have subsequently preferred the challenge under Section 9, were themselves the applicants therein and the order was passed in their presence.
- 40.** Thus, the limitation period for preferring a challenge under Section 9, under the residuary clause of Article 137 of the Limitation Act, expired three years after July 25, 2007, that is, on or about July 24, 2010.
- 41.** The challenge under Section 9 was filed after an inordinate delay of 16 years from the order, thus being hopelessly barred by limitation.
- 42.** Even the private respondents, by filing an application under Section 5, read with Section 14, of the Limitation Act, submitted to the rigours of the Limitation Act and admitted that the Limitation Act is applicable.

- 43.** The ground for condonation of delay cited by the private respondents in the said condonation application was primarily that the private respondents were engaged in “litigation” otherwise.
- 44.** One such “litigation” was the challenge before the Land Reforms and Tenancy Tribunal and the subsequent writ petition therefrom.
- 45.** However, the said challenge was on a completely different footing and not in the nature of an application under Section 9 of the 1975 Act or a challenge to the order dated July 25, 2007, whereby the BL & LRO categorically held that on scrutiny of the records of rights and available papers and on perusal of the matter, the recording in favour of the present writ petitioner was upheld.
- 46.** In fact, the application filed before the Land Reforms and Tenancy Tribunal was on an allegation of alleged contempt on the perception that the BL & LRO had not disposed of the matter, contrary to the directions of the Tribunal.
- 47.** The Tribunal turned down such plea on the ground that the matter had already been disposed of and the writ court affirmed the said order.
- 48.** Hence, the said application for contempt cannot be equated with a bona fide challenge to the substantive order dated July 25, 2007 before a wrong forum.

- 49.** The other litigation cited by the private respondents in the condonation application was a title suit between the parties which, however, was on an entirely different footing, not being a challenge to the order dated July 25, 2007 in any manner whatsoever.
- 50.** Thus, the pendency of the other litigations are not germane and do not attract the provision of Section 14 of the Limitation Act, as sought to be argued by the private respondents herein.
- 51.** That apart, in the order of the BL & LRO dated July 25, 2007 itself, the said authority categorically recorded that the applicant therein, that is, the present private respondents, may prefer an appeal before the appropriate authority under Section 9 of the 1975 Act, thus, making it abundantly clear as to what provision was to be resorted to by the private respondents.
- 52.** Hence, the private respondents cannot feign ignorance of the available remedy in that regard, since they had knowledge of the same from the date of the impugned order of the BL & LRO itself.
- 53.** Hence, on a composite consideration of the above circumstances, we are of the opinion that the learned Tribunal acted completely without jurisdiction in coming to the conclusion that the provisions of the Limitation Act are not attracted, since Section 9 of the 1975 Act does not specifically stipulate any limitation.

- 54.** Insofar as the order of the Collector under Section 9 is concerned, the same merely deals with the condonation application in an absolutely cursory manner, by observing that the objection as to limitation was a mere technicality, without considering the huge and inordinate delay of 16 years in preferring the challenge and that there was no sufficient explanation furnished by the private respondents for such delay.
- 55.** Although courts and quasi-judicial forums are lenient in condoning delay, such lenience cannot be extended to such an extent that the provisions in the Limitation Act would be rendered nugatory. Moreover, no lenience can be shown in respect of litigants who are utterly negligent in pursuing their legal remedy. In the present instance, the private respondents waited for 16 long years to prefer the challenge, without providing any plausible justification for such prolonged delay at all. They had been litigating before other forums in the meantime and, thus, had sufficient access to legal advice from counsel.
- 56.** Instead of relegating the parties back to the first forum, since we have discussed at length the grounds cited by the private respondents for the condonation application and as we have turned down such grounds, we choose to decide the matter finally in the present proceeding.

- 57.** In view of the above discussions, it was a palpable act of travelling *de hors* its jurisdiction on the part of the Land Reforms and Tenancy Tribunal and the Collector, in passing the orders impugned herein, as the provisions of the Limitation Act were very much applicable to the application under Section 9 of the 1975 Act and the condonation of the long delay of 16 years in a mechanical manner, without any reason being shown for such delay, was inexcusable.
- 58.** In such view of the matter, WPLRT 14 of 2025 is allowed on contest, thereby setting aside the impugned order of the West Bengal Land Reforms and Tenancy Tribunal, Second Bench in Case No. O.A. 2536 of 2024 (LRTT) as well setting aside Order No. 3 dated July 25, 2024 passed by the Collector under the 1975 Act and ADM and DL & LRO, South 24 Parganas in L.R. Appeal No. 981 of 2023.
- 59.** There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)