

D/L.9.
October 28, 2025.
MNS.

WPLRT No. 36 of 2025

Bimal Shasmal and others
Vs.
State of West Bengal and others

Mr. Partha Pratim Roy,
Mr. Debabrata Sardar

... for the petitioners.

Ms. Debdooti Dutta

...for the State.

Mr. Sanjib Seth

...for the respondent nos. 12 to 21.

1. The scope of the present challenge is limited.
2. The West Bengal Land Reforms and Tenancy Tribunal, Second Bench, dismissed on merit an original application filed by the present petitioners.
3. Learned counsel for the petitioners submits that the principles of Order XLI Rule 17 of the Code of Civil Procedure are applicable by dint of Section 16(e) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 (in short "the 1997 Act") to an original application before the Tribunal.
4. Heard learned counsel for the parties.
5. Section 16(e) of the 1997 Act categorically provides that the Tribunal shall, for the purposes of the said Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,

while trying a suit in respect of dismissing an application or proceeding for default or deciding it *ex parte*.

6. Learned counsel for the petitioners relies on a judgment reported at 2024(1) ICC 631 (*Benny D'souza and others Vs. Melwin D'souza and others*), where it was reiterated by the Hon'ble Supreme Court, by placing reliance on Order XLI Rule 17 of the Code, that an appeal cannot be dismissed on merits for the absence of the appellant.
7. Since a challenge before the Tribunal has ingredients of an appeal and even otherwise, it is well-settled that even a writ petition cannot be dismissed on merits merely for the absence of the writ petitioner, we are of the categorical opinion that the Tribunal acted without jurisdiction in dismissing on merits the original application of the petitioners due to the absence of the petitioners.
8. Accordingly, the impugned order suffers from patent jurisdictional error.
9. Hence, WPLRT No. 36 of 2025 is allowed on contest, thereby setting aside the impugned order dated January 10, 2025 passed by the West Bengal Land Reforms and Tenancy Tribunal, Second Bench, in O.A. 1701/2022 (M.A. 393/2023) (LRTT) and remanding the matter to the Tribunal

for a fresh hearing on merits upon giving opportunity of hearing to both parties.

10. It is expected that the Tribunal shall dispose of the matter as expeditiously as the roster of the Tribunal permits.

11. Needless to say, we make it clear that we have not gone into the merits of the issues involved in the original application and it will be open to the Tribunal to independently dispose of the case without being influenced in any manner on merits by any of the observations made above.

12. There will be no order as to costs.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)