

Court No. 6
(265719)

05.05.2025
(A 19)
(S. Banerjee)

CO 1060 of 2025

Hazi Nazrul Islam & Ors.
Vs.
Indrani Sarkar & Anr.

Mr. Dwijadas Chakraborty

...for the petitioners

This application under 227 of the Constitution of India is at the instance of the preemptor in an application under Section 8 of the West Bengal Land Reforms Act, 1955.

The learned Civil Judge (Jr. Division), Lalbagh, Murshidabad allowed the application for preemption by a judgment and order dated January 31, 2018.

Being aggrieved against the aforesaid judgment and order, the opposite parties herein preferred an appeal before the learned Additional District Judge, 1st Fast Track Court, Lalbagh, Murshidabad, being Misc. Appeal No. 49 of 2018 which was renumbered as Misc. Appeal No. 3 of 2023.

The issue that fell for consideration before the learned judge of the first appellate court was whether the petitioners herein have deposited the entire consideration with further sum of 10% of sale

consideration as required under Section 8 of the 1955 Act. The learned judge of the first appellate court recorded a factual finding that the preemptors failed to comply with the mandatory requirements of depositing the entire sale consideration with further sum of 10% of the sale consideration as required under Section 8 of the said Act.

Mr. Chakraborty, learned advocate for the petitioners, could not controvert such recording of fact by the learned judge of the first appellate court. The learned judge of the first appellate court took note of the decision of the Hon'ble Supreme Court in the case of *Barasat Eye Hospital & Ors. –Vs.- Kaustav Mondal*, reported at 2022(3) CHN (SC) 108 and allowed the miscellaneous appeal on the ground that the petitioners did not deposit the entire sale consideration with further 10% of the sale consideration along with the application for preemption.

In view thereof, this court is not inclined to interfere with the order impugned. Accordingly, CO 1060 of 2025 stands dismissed without any order as to costs.

(Hiranmay Bhattacharyya, J.)