

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

RVW 85 OF 2025
With
CAN 1 of 2025
State of West Bengal & Ors.
Vs.
Rameswar Pramanik & Ors.

Before: The Hon'ble Justice Arijit Banerjee
&
The Hon'ble Justice Apurba Sinha Ray

For the Review Applicants : Mr. Kishore Dutta, Id. A.G
Mr. Susovan Sengupta, Adv.
Mr. Subir Pal, Adv.

For the Respondents : Mr. Saptangshu Basu, Sr. Adv.
Mr. Dhiraj Trivedi, Sr. Adv.
Mr. Subhabrata Das, Adv.
Mr. Arindam Banerjee, Adv.

CAV On : 25.11.2025

Judgment On : 24.12.2025

Apurba Sinha Ray, J.:-

1. The judgment dated 18.04.2024 passed in MAT 1095 of 2019 is under review in the instant review application. Learned Advocate General has

drawn our attention to paragraph no. 23.1 of the judgment which is quoted herein below:-

“23.1. After going through the above judgment of the Learned Single Judge it appears that basically the Learned Single Judge has directed that demarcation of 3.13 acres of land as discussed in the said judgment should be done subject to the proceedings undertaken under Section 14(T) of the Act, 1955 which has been pending for a long time. By keeping the same pending, the State, in fact, has protracted and delayed the logical conclusion of the instant matter. One must keep in mind that under the Act of 1955, vesting takes place only after the Revenue Officer determines the extent of excess land that is to vest in the State under Section 14S of the Act and then takes possession of such lands. This determination takes place in a proceeding under Section 14T(3) of the Act. That proceeding is still pending as regards the lands involved in the present case.

A private party cannot wait for an indefinite period to get his property or dues in accordance with law. As the State has failed to dispose of the proceeding under Section 14T of the West Bengal Land

Reforms Act, 1955 in time, we think there is no illegality by directing the State to demarcate 3.13 acres of land as discussed hereinabove subject to the result of the proceedings under Section 14T of the aforesaid Act. However, there are certain remarks made by the Learned Single Judge in the impugned judgment regarding the pending proceeding under Section 14(T) of the Act, 1955 which should be ignored for the ends of justice.”

2. Learned Advocate General submitted that although the Division Bench had proceeded to dispose of the said appeal on the assumption that the proceeding under Section 14T(3) of the West Bengal Land Reforms Act, 1955 was still pending, but, in fact, the said proceedings were completed on 13.08.2019. Mr. Dutta fairly submitted that unfortunately the said factum was not brought to the notice of the Division Bench during hearing of the above appeal from the side of the appellant or by the respondents. However, the observation in the aforesaid judgment that the said proceeding under Section 14T(3) under the West Bengal Land Reforms Act, 1955 was still pending, is an error apparent factually, and hence the instant review application is being moved after filing the prayer for condonation of delay. If the said error is allowed to remain in the said judgment of the Hon’ble Division Bench it will cause miscarriage of justice since such observation of the Hon’ble Division Bench was based on certain wrong factual matrix.

Accordingly, Mr. Dutta submitted that a clarification is required since by order dated 13.08.2019 of the competent authority, the relevant land measuring about 2.83 acres vested in the State free from all encumbrances and as a result no demarcation is required as per observation of the learned single Judge which was affirmed by the Division Bench in the aforesaid appeal. Mr. Dutta has referred to several judgments in support of his contention. He submitted that in **(2019) 4 Supreme Court Cases 376 (Khoday Distilleries Limited (now known as Khoday India Limited) & Ors. Vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal (under Liquidation) represented by the Liquidator** the Hon'ble Supreme Court has laid down that an order refusing special leave to appeal does not attract the doctrine of merger. An order reusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the court was not inclined to exercise its discretion so as to entertain the appeal. Mr. Dutta candidly submitted that though the special leave petition against the judgment and order dated 18.04.2024 was refused that does not take away the right of the appellant to file the present review application particularly when the said judgment of Division Bench contains an error apparent on the face of the record.

3. Mr. Dutta also relied on the decision reported in **(2015) 15 Supreme Court Cases 602, State of Jammu and Kashmir Vs. R.K. Zalpuri and Ors.** to impress upon this court that it is the duty of the High Court with its plenary power to correct grave palpable errors committed by it for the

purpose of preventing miscarriage of justice. Mr. Dutta also referred to a judgment passed by a co-ordinate Bench in **CPAN No. 2796 of 2014 (Shri Sadhan Roy (Budhuk) & Ors. Vs. Shri Arvind Kumar Singh & Ors.** In the said judgment the High Court had recalled and set aside its previous orders due to non-availability of records at the relevant point of time when the writ petitioners had approached the court.

4. Mr. Basu, learned Senior Advocate, representing the respondents/writ petitioners submitted that the instant review application should be rejected in limine in view of the fact that the same was filed after dismissal of special leave application before the Hon'ble Supreme Court and further there was a delay of 300 days in filing the instant petition for review. The judicial decision of a three Judge Bench of the Hon'ble Supreme Court reported in **(1998) 7 SCC 386 (Abbai Maligai Partnership Firm & Anr. Vs. K. Santhakumaran & Ors.)** has held, inter alia, that after dismissal of the special leave petition in limine the Hon'ble High Court cannot again hear the matter as a review petition. The learned counsel for the respondent has also relied on the judicial decision reported in **1993 Supp (4) Supreme Court Cases 693 (Junior Telecom Officers Forum and Ors. Vs. Union of India and Ors.)** with similar observation.

5. According to Mr. Basu, an application for review cannot be an appeal in disguise. There is a world of difference between an error apparent on the face of the record and an erroneous decision. In this regard, he has relied upon a decision of Hon'ble Supreme Court reported in **(2022) 17 Supreme**

Court Cases 255 (S. Madhusudhan Reddy Vs. V. Narayana Reddy and Ors.) to argue that the review applicant's ground for review is not only misconceived but also redundant in the facts of the case. The mandamus appeal was preferred against the judgment and order of the Learned Single Judge which was delivered at a time when the proceeding under Section 14T was pending and was not yet disposed of. The Division Bench affirmed the findings of the Learned Single Judge and in spite of such findings the State authorities willfully and deliberately disobeyed the order of the Learned Single Judge and for which the writ petitioners were compelled to file an application for contempt against the government officials which is pending for disposal. The appellant namely, the State of West Bengal never filed any application for taking note of subsequent events before the Division Bench stating that after the disposal of the writ application and before the date of hearing of the appeal, the 14T proceeding had proceeded illegally and concluded. As such the Division Bench did never had notice of the said fact nor the same was argued before it. Mr. Basu further submitted that when the very initiation of 14T proceeding was bad in law and without jurisdiction, any order or further order passed thereon is irrelevant and redundant. The self-same ground was agitated before the Hon'ble Supreme Court and was heard on merits in presence of learned advocates of the parties and was rejected after hearing. So the present application for review being wholly unsustainable and meritless is liable to be dismissed with costs.

Court's view:-

6. After taking into consideration the submission of both the applicants and respondents we find that this case is factually different from the judicial decisions cited above. When a fact is specifically pleaded and argued but the Court has made some factually incorrect observation, there may be chances of occurrence of error apparent on the face of record.

7. The peculiarity of the instant case is that a relevant fact, that is, disposal of 14T proceedings under West Bengal Land Reforms Act, 1955 was neither pleaded nor specifically argued at the time of hearing of the appeal. Though the said proceedings under Section 14T of West Bengal Land Reforms Act ended on 03.08.2019, such factum of disposal was not pleaded in the four corners of the memo of appeal which was filed in the month of December, 2019. Therefore, when a fact which is not divulged in the pleadings and accordingly, not taken into consideration by the Court, cannot be described as an error committed on the part of the Court. Mr. Dutta has referred to the judicial decision reported in **State of Jammu and Kashmir (supra)** in support of his contention that when there is a grave palpable error committed by the High Court, it should exercise its plenary power to rectify such error, otherwise miscarriage of justice will be done to the concerned party. Mr. Dutta had submitted in supposition that such factum of disposal of the relevant proceeding under Section 14T (3) of the West Bengal Land Reforms Act was argued before this Court but the fact remains that in the memorandum of appeal there was no whisper that the

relevant proceeding was disposed of on 03.08.2019. Therefore, the Hon'ble Division Bench has delivered its judgment on the factual matrix that was pleaded and argued by the concerned parties to the relevant appeal. Therefore, there was no error committed by the Court. Rather, the appellant failed to mention the fact of such disposal in the memo of appeal which was filed in the month of December, 2019.

8. Another aspect which should not be lost sight of is that the Division Bench was called upon to decide whether the judgment passed by the learned Single Judge on 03.07.2019 and 05.07.2019 was correct or not. The Division Bench held that *“as the State has failed to dispose of the proceedings under Section 14T of the West Bengal Land Reforms Act, 1955 in time we think there is no illegality by directing the State to demarcate 3.13 acres of land as discussed hereinabove subject to the result of the proceedings under Section 14T of the aforesaid Act.”* As there is no material to show that the said proceeding has already been disposed of prior to filing of the said appeal, we do not find any error apparent on the face of the record by making such observation. In other words the records alongwith submission of the Counsel during the hearing of the appeal indicated that the proceedings under Section 14T of the West Bengal Land Reforms Act, 1955 were still pending on the date of delivery of judgment in the appeal by the Division Bench.

9. As we have clearly mentioned in the said judgment that the Learned Single Judge did not commit any illegality by directing the State to

demarcate 3.13 acres of land subject to the result of the proceeding under Section 14T of the aforesaid Act, it is now inconsequential even if we record in this review application that on the date of filing of the appeal the said proceeding under Section 14T of the Act of 1955 stood disposed of. Moreover, the relevant Special Leave Petition contains the ground inter alia, that such proceedings under Section 14T of the Act, 1955 were disposed of on 13.08.2019, but the Hon'ble Division Bench did not consider the same. However, the said plea did not persuade the Hon'ble Apex Court to grant special leave to appeal against the judgment and order under review in this application. Considering all aspects we do not find any illegality in the judgment under review or error apparent on the face of the record which unsettles the reasons given in the judgment and order dated 18.04.2024 passed by the Division Bench in MAT 1095 of 2019. Therefore, we do not find any merit in the instant review application and hence it is dismissed. There will be no order as to costs.

10. RVW 85 of 2025 with CAN 1 of 2025 is disposed of.

11. Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

I Agree.

(APURBA SINHA RAY, J.)

(ARIJIT BANERJEE, J.)