

M/L- 36
05/05/2025
Ct. No.-6
Aritra

C.O. 1138 of 2025

Muntaj Ali
Vs.
Honofa Bibi

Mr. Dipayan Kundu
Mr. Priyankar Ganguly
Ms. Shalini Bairagi

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the preemptor and is directed against judgment and order dated September 24, 2024 passed by the learned Additional District Judge, Fast Track, 1st Court, Jangipur, District-Murshidabad in Miscellaneous Appeal No.20 of 2016.

By the judgment and order dated September 24, 2024, the learned Additional District Judge, Fast Track, 1st Court, Jangipur dismissed the said miscellaneous appeal thereby affirming the order passed by the learned trial judge rejecting the application under Section 8 of the West Bengal Land Reforms Act.

The petitioner filed an application under Section 8 of the West Bengal Land Reforms Act praying for preemption on the ground of co-sharer in respect of the two plots of land being L.R. Plot No.54 and 55, portions of which were transferred to the opposite party by virtue of the deed dated April 24, 2012. The opposite party herein contested the said application for preemption by

raising an objection stating that the deed in question by virtue of which portions of the aforesaid plots were transferred in favour of the opposite party was not a sale deed, but a deed of exchange.

The learned Civil Judge (Jr. Div.), Additional Court, Jangipur after considering the impugned deed and the evidence of the respective parties held that the deed in question by virtue of which the portions of the aforesaid plots were transferred in favour of the opposite party was a deed of exchange and not a sale deed.

Being aggrieved the petitioner preferred an appeal being Miscellaneous Appeal No.20 of 2016 and the learned Judge of the First Appellate Court by the judgment and order dated September 24, 2024 dismissed the said miscellaneous appeal.

The learned advocate appearing for the petitioner submits that the first witness of the opposite party in her evidence stated that there was payment and acceptance of money as a result of such transaction. He further submits in view of such admission by the said witness, who was a party to the impugned deed, the learned trial judge as well as the learned Judge of the First Appellate Court ought to have relied upon the said admission and held that the impugned transaction was a sale transaction and not a deed of exchange.

After going through the impugned deed which was marked as Exhibit-A, this Court finds that the same is a

deed of exchange. The learned trial judge as well as the learned judge of the First Appellate Court took note of the fact that the O.P.W.1 is a rustic and illiterate lady and merely on the basis of a solitary statement in the evidence the terms of a written contract cannot be contradicted. On the basis of such finding the learned trial judge as well as learned Judge of the First Appellate Court held that the impugned deed was a deed of exchange and not a sale deed.

In the light of the aforesaid finding the application under Section 8 of the West Bengal Land Reforms Act was dismissed. This Court does not find any infirmity in the aforesaid judgment and order warranting interference under Article 227 of the Constitution of India.

For the reasons as aforesaid, CO 1138 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)