

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WPLRT/79/2025

PRANAB KUMAR KAR

VS

THE STATE OF WEST BENGAL AND ORS.

For the Appellant : Mr. Biswaroop Bhattacharya, Sr. Adv.
Mr. Arup Nath Bhattacharyya,
Ms. Sayani Das, Advocates

For the State : Sk. Md. Galib, Sr. Govt. Adv.
Ms. Sujata Mukherjee, Advocates

Heard and judgment on : May 21, 2025

DEBANGSU BASAK, J.

1. Writ petition is directed against an order dated March 27, 2025 passed in OA 1788 of 2024 (MA 807 of 2024) (LRTT).
2. Learned advocate appearing for the writ petitioner submits that, title to the land was declared by a civil Court. A section of persons whose title stood declared by the civil Court were allowed to obtain mutation, by the State authorities. So far as the petitioner is concerned, the State refused to extend the same benefit.

3. Learned advocate appearing for the petitioner submits that, State cannot act contrary to a decree passed by a civil Court. In support of his contention, he relies upon **(2007) 2 Cal LJ 538 (Panchu Gopal Bhattacharjee vs. State of West Bengal & Ors.)**
4. Learned advocate appearing for the petitioner submits that, the petitioner will suffer undue hardship in the event the petitioner is required to avail of the statutory remedy of appeal. He submits that, the learned tribunal erred in not hearing and disposing of the original application on merits. He submits that the tribunal possessed the requisite power to hear and dispose of the original application notwithstanding the petitioner not availing of the statutory alternative remedy of appeal.
5. Learned advocate appearing for the State draws the attention of the Court to an order dated August 29, 2019 passed in WPLRT 26 of 2019 with WPLRT 74 of 2019 with WPLRT 80 of 2018 passed by the co-ordinate Bench. He submits that the issue as to the civil Court's power vis-à-vis Section 57B of the Act was referred to a Larger Bench.
6. Writ petitioner applied for mutation on the basis of a decree passed by a civil Court. Concerned Block Land & Land Reforms Officer was

pleased to reject the same. Aggrieved, the writ petitioner approached the tribunal by way of OA 1788 of 2024 (MA 807 of 2024) (LRTT).

7. There is no doubt a statutory alternative remedy of appeal available to the writ petitioner directed against the order of the concerned Block Land & Land Reforms Officer. Writ petitioner seeks to approach the tribunal in view of the provisions of Section 10(3) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997.
8. *"Section 10(3) of the Act is as follows :-
10(3). Save as expressly provided in this Act, the Tribunal shall not admit an application referred to in sub-section (1) unless it is satisfied that –
(a) the applicant has availed of all remedial measures available to him under the relevant specified Act, and
(b) the remedial measures available under the provisions of the relevant specified Act are not adequate or shall cause undue hardship to the applicant."*
9. No doubt, the tribunal can entertain an original application without the original applicant exhausting the statutory alternative remedy of appeal, if such applicant establishes before the tribunal that the remedial measures available are not adequate or availing of the same shall cause undue hardship to the original applicant.
10. In the facts of the present case, petitioner relies upon a decree passed by the civil Court declaring title.

11. **Panchu Gopal Bhattacharjee** (supra) held that, tribunal constituted under the West Bengal Land Reforms and Tenancy Tribunal Act is incompetent to declare a decree of declaration of title passed by a civil Court as a nullity.
12. View of the co-ordinate Bench rendered in **Panchu Gopal Bhattacharjee** (supra) with regard to the scope and ambit of Section 57B of the West Bengal Estate Acquisition Act, 1953 was doubted by another co-ordinate Bench and a reference on such point of law was made to a larger Bench which is still pending.
13. In the facts of the present case, we do not find any material to suggest that, the remedial measures available to the petitioner are not adequate or that availing of the same would cause any undue hardship to the petitioner.
14. Learned tribunal after noticing the fact that the petitioner did not approach the appellate authority and that, there was no whisper in the original application as to why the remedial measures available to the petitioner was not adequate or would cause undue hardship if availed of, proceeded to dismiss the original application after condoning the delay of 71 days in filing the same.

15. We find no ground to interfere with the impugned order dated March 27, 2025 for the reasons recorded above.
16. WPLRT/79/2025 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

17. I agree.

(Md. Shabbar Rashidi, J.)

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