

S/L 5
19.06.2025
Court. No. 19
Sourav

WPA 10834 of 2025

**Gadadhar Das
Vs.
The State of West Bengal & Ors.**

*Mr. Saikat Chatterjee
Mr. Md. Abdur Rakib
Mr. Biswajit Sarkar
Mr. Mojahid Mehedi
Mr. Sk. Nasim*

...for the petitioner.

*Ms. Jhuma Chakraborty
Ms. Mun Mun Tewary*

...for the State.

1. The affidavit-of-service as filed today is taken on record.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs for rescinding and/or for cancelling the order of annulment dated 13.03.2024 as passed by the SDO at Raiganj, Uttar Dinajpur who is the respondent no. 4 herein.
3. In course of hearing Mr. Chatterjee, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page No. 25 of the instant writ petition being a copy of the order dated 13.03.2024 as passed by the respondent no. 4/authority in a proceeding under Section 49(2) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as 'the said Act of 1955' in short).
4. Mr. Chatterjee requests this Court to go through the provisions of Section 49(2) of the said Act of 1955. It is

submitted by Mr. Chatterjee that on comparative study of the provision of Section 49(2) of the said Act of 1955 and the order dated 13.03.2024, which is under challenge, it would reveal that the respondent no. 4/authority is not the competent authority to pass an order of annulment of patta under Section 49(2) of the said Act of 1955.

5. In his next fold of submission, Mr. Chatterjee further submits that on perusal of the order dated 13.03.2024, it would reveal that the respondent no. 4/authority had not placed his reliance on the grounds for annulment of patta as has been mentioned in Section 49(2) of the said Act of 1955.
6. In course of his submission, Mr. Chatterjee also hands over a copy of memo dated 29.05.2025 as issued by the jurisdictional BL & LRO. It is submitted by Mr. Chatterjee that challenging the order dated 13.03.2024, the writ petitioner approached the appellate authority which would be evident from Page No. 30 onwards of the instant writ petition and despite pendency of such appeal, the said notice dated 29.05.2025 was issued directing the writ petitioner to vacate the land which has been wrongly annulled.
7. It is thus submitted by Mr. Chatterjee that it is a fit case for grant of prayer/prayers as made in the instant writ petition.
8. Per contra, Ms. Chakraborty, learned advocate appearing on behalf of the respondent/State and its functionaries submits before this Court that the order

as passed by the respondent no. 4/authority is appealable one and in fact, the present writ petitioner has preferred an appeal which is pending before the jurisdictional DL & LRO.

9. It is thus submitted by Ms. Chakraborty that since the writ petitioner has already availed efficacious, statutory, alternative remedy, the instant writ petition is not maintainable.
10. This Court has meticulously gone through the entire materials as placed before this Court. This Court has duly considered the rival submissions of the learned advocates for the contending parties.
11. For effective adjudication of the instant *lis*, this Court at the very outset proposes to look to the provisions of Section 49 of the said Act of 1955 which is quoted hereinbelow in verbatim:-

“49. Principles of distribution of lands.

1

(1A)

(2) If a Revenue Officer, on his own motion or an application made to him in that behalf, after hearing the person with whom the land was settled and in the case of any subsequent transfer, the transferee as also the person who is, for the time being in actual occupation of such land and after making such enquiry as may be prescribed, is satisfied that settlement of such land was made by mistake or obtained under any provision of this section by practice of fraud, misrepresentation, coercion or otherwise or that a transfer of any land has been made in contravention of the provisions

of sub-section (1A), he may, by order in writing, annul the settlement or both the settlement and the transfer, as may be deemed necessary.

(3)

(3A)

(4)

(4A)

(5)”

12. At this juncture, if I look to the factual aspects of this case, it appears to this Court that the order dated 13.03.2024 which is under challenge has been passed by the respondent no. 4/authority who is the Sub-Divisional Officer, Raiganj, Uttar Dinajpur. However, on perusal of Section 49(2) of the said Act of 1955, it appears to this Court that only a revenue officer is empowered to pass an order in writing regarding annulment of patta. No explanation has been given on behalf of the State as to how and as to why instead of a revenue officer, the jurisdictional SDO passed the order under challenge.
13. It further appears to this Court that Section 49(2) of the said Act of 1955 clearly mandates that a revenue officer may pass an order of annulment of settlement and/or patta on the following grounds:
 - i) When the settlement of land was made by mistake or when such settlement was obtained by practice of fraud, misrepresentation or otherwise;

Or

ii) On account of violation of the provision of Section 49(1A) of the said Act of 1955.

14. Keeping in mind the aforementioned legislative provision, if I look to the order dated 13.03.2024, it reveals that the respondent no. 4/authority found no such ground(s) for annulment of settlement and/or patta as has been given to the writ petitioner. This Court thus has got no hesitation to hold for annulment of settlement and/or patta as has been given to the writ petitioner no sufficient justification has been given by the respondent no. 4 while passing the order under challenge. This Court has thus got no hesitation to hold that while passing the order under challenge dated 13.03.2024, the respondent no. 4/authority had acted contrary to the provision of Section 49(2) of the said Act of 1955.
15. Admittedly on behalf of the respondent/State, an objection was raised to the effect that challenging the said order dated 13.03.2024, the writ petitioner has already approached the jurisdictional DL & LRO by filing an appeal and thus availed the alternative, efficacious, statutory remedy. It is thus submitted on behalf of the State that the instant writ petition is not maintainable.
16. At this juncture, this Court intends to place its reliance upon the reported decision of ***U.P State Spinning Co. Ltd. Vs. R. S. Pandey & Anr.*** reported in ***(2005) 8 SCC 264*** wherein the Hon'ble Supreme Court had dealt with the power of the High Court in its

writ jurisdiction despite availability of alternative remedy.

17. The relevant portion of the aforementioned judgment of *U.P. State Spinning Company Limited* is quoted hereinbelow in verbatim:

“11.

Normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approaches the High Court without availing the alternative remedy provided, the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extraordinary jurisdiction.

16.

There are two well-recognized exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is ultra vires, it is open to a party aggrieved thereby to move the High Court for quashing the proceedings on the ground that they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has not application when the impugned order has been made in violation of the principles of natural justice.”

18. Keeping in mind the abovementioned proposition of law if I again look to the factual aspects of this Court it appears to this Court that the writ petitioner is successful in making out a strong case as well as it has been placed before this Court on behalf of the writ petitioner that there exist good grounds to invoke the

extraordinary jurisdiction of this Court despite availability of the alternative efficacious statutory remedy. It further appears to this Court that the order which is under challenge before this court as has been passed by the respondent no. 4 is not only without jurisdiction but also the same has been passed overlooking the statutory provision of Section 49 (2) of the said Act of 1955.

19. In view of the discussion made hereinabove the instant writ petition succeeds and is hereby allowed and disposed of.
20. Consequently, the order dated 13.03.2024 as passed by the respondent no. 4/authority in case no. 01/Annul/H/2024, District – Uttar Dinajpur is hereby set aside.
21. Liberty is given to the learned advocate-on-record of the writ petitioner to communicate the server copy of this order to the respondent no. 4/authority forthwith.
22. Respondent no. 4/authority is hereby directed to act on the basis of the server copy of this order.
23. Before parting with, it is pertinent to mention that in view of passing of this order and judgment the appeal case no. 141/A/2025 as pending before the DL & LRO, Uttar Dinajpur has become infructuous.
24. Urgent xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)