

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

W.P.L.R.T. No. 335 of 2007

Shri Biswajit Das
Vs.
State of West Bengal and Ors.

For the petitioners : Mr. S. P. Pahari,
Mr. A. Pradhan,
Mr. T.K. Mahapatra, Advs.

For the State : Mr. Jayanta Samanta,
Ld. Jr. Govt. Adv.,
Mr. Kaustav Chatterjee, Adv.

Heard on : September 24, 2025.

Judgment on : September 24, 2025.

Sabyasachi Bhattacharyya, J.:

1. Affidavit of service filed today be kept on record.
2. The matter is mentioned on the ground that a similar writ petition had been previously disposed of by us on September 11, 2025 being W.P.L.R.T. No. 334 of 2007 and since the facts are virtually the same in both the matters, a similar order may be passed in the present matter too.

3. The moot question before us is whether the West Bengal Land Reforms and Tenancy Tribunal was justified in entertaining an appeal against an order passed by the B.L.& L.R.O. (Revenue Officer) under the West Bengal Estates Acquisition Act, 1953) (the 1953 Act) at the behest of the B.L.& L.R.O. himself.
4. Although the appeal was preferred before the Tribunal on behalf of the State, a question arises as to whether the said appeal could be preferred by the State through the B.L.& L.R.O., acting as an agent of the State, in view of the B.L.& L.R.O. himself being the authority which passed the impugned order.
5. Having heard learned counsel for the parties, we find that there is substance in the contention of the writ petitioner.
6. The State has attempted to defend the filing of the appeal on the ground that the Revenue Officer (B.L. & L.R.O.) was the authorized person designated to prefer the appeal on behalf of the State and did not prefer the appeal in his individual capacity. Section 4 of the 1953 Act is cited by the State, which provides that the State Government may from time to time by notification make declaration with regard to vesting of an estate. We are also apprised on behalf of the State of the fact that for the lands in question, an appropriate notification was issued by the State.
7. However, there is palpable absurdity in the argument of the State.
8. As held in our earlier judgment in the unreported case of *Shri Biswajit Das vs. State of West Bengal and Others* (W.P.L.R.T. 334 of 2007), the office of a particular authority under a statute does not change its

character merely by a new individual assuming office in place of the earlier incumbent. Thus, the B.L.& L.R.O., while preferring the appeal in question, acted in his capacity of B.L. & L.R.O., even if the particular officer manning the post had changed.

9. Under the 1953 Act, Section 57B (2)(b) provides that it is the Revenue Officer who has to make an adjudication within the contemplation of the said provision.
10. The current Revenue Officer who preferred the appeal, despite him being a different individual than the one who passed the original vesting order, retains the character of a Revenue Officer within the contemplation of the statute.
11. It would cause judicial anarchy and hierarchical chaos if an adjudicating officer under the aegis of a statute makes an adjudication and simultaneously feels himself aggrieved by such order and prefers a challenge against the same. By way of such challenge, a power of review is in effect being incorporated into the statute, which is otherwise not permissible in law.
12. Although, in the present case, the appeal was preferred in the name of the State of West Bengal, the State was relegated merely to a name-lender in view of the practical reality that the affidavit in support of the appeal was affirmed by the B.L.& L.R.O., who adjudicated the order impugned in the appeal. Such change of avatar by the Revenue Officer, who passed the order, by conveniently representing himself as the representative of the State, which is aggrieved by such order, vitiates the

very premise of the adjudicatory process contemplated under the 1953 Act and imparts an element of palpable bias to such adjudication, since the officer passing the order is himself preferring the appeal.

13. The confidence reposed on the Revenue Officer by the Legislature in entrusting him to make an adjudication incorporates an element of neutrality of the said officer. Thus, the Revenue Officer, who himself passed the impugned order, cannot come within the ambit of a “person aggrieved” with such order within the contemplation of Section 57B (4) of the 1953 Act. It is unfortunate that the State resorted to such practice by taking an affidavit from the current Revenue Officer while preferring a challenge on its behalf against an order passed by the Revenue Officer himself. Hence, the appeal before the Tribunal, in its present form, is *ex facie* not maintainable. Thus, the learned Tribunal acted without jurisdiction in turning down the challenge to the *locus standi* of the B.L. & L.R.O. in affirming the affidavit on behalf of the State/appellant in connection with the appeal.
14. Accordingly, W.P.L.R.T. No. 335 of 2007 is allowed on contest, thereby setting aside the impugned order dated April 17, 2007 passed by the Second Bench, West Bengal Land Reforms and Tenancy Tribunal in O.A. 1083/07 (LRTT). We thus dismiss the appeal preferred by the State with the Revenue Officer (B.L. & L.R.O.) as the person affirming the appeal, bearing Appeal No. 77(T)/2006, on behalf of the State.
15. In view of the long pendency of the present writ petition, the principles of Section 14 of the Limitation Act would be applicable if a fresh appeal is

preferred by the State against the order impugned in the appeal, that is, Appeal No. 77(T)/2006 through a different officer.

16. It is made clear that nothing in this order shall preclude the State from preferring a fresh appeal within a reasonable period from this date without involving the B.L. & L.R.O. in any manner whatsoever in the filing or conduct of such appeal.
17. If so preferred, such appeal will be decided independently and in accordance with law, without being prejudiced on merits by any of the observations made herein, upon giving ample opportunity of hearing to all concerned.
18. There will be no order as to costs.
19. The parties and the Tribunal shall act on the server copy of this order, duly downloaded from the official website of this court.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)

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(SSS)