

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 Supratim Bhattacharya

MAT 1044 of 2023
with
CAN 1 of 2023
with
CAN 2 of 2023
with
CAN 3 of 2025
with
CAN 4 of 2025
with
CAN 5 of 2025

Laksman Chandra Sahoo and Ors.
Vs.
Sri Radhashyam Das Adhikary and Ors.

For the appellants : Mr. Syed Chandan Hossain, Adv.

For the respondents/
writ petitioners : Mr. Binoy Kumar Das,
Mr. Jagadish Chandra Das,
Mr. Pradip Paul, Adv.

For the State : Mr. Santanu Kumar Mitra,
Snr. Govt. Adv.,
Mr. Amartya Pal, Adv.

Heard on : December 16, 2025.

Judgment on : December 16, 2025.

Sabyasachi Bhattacharyya, J.:

Re: CAN 3 of 2025 & CAN 5 of 2025 (substitution)

1. During pendency of the appeal, the original respondent no. 1- Radhashyam Das Adhikary met his demise.
2. It is the case of the appellants that the appellants subsequently came to know of such demise and have taken out the present substitution application, bearing CAN 3 of 2025. In CAN 3 of 2025, the names of all the heirs and legal representatives of the said deceased were included, including his wife, who also subsequently died, upon which CAN 5 of 2025 was filed afresh for substitution of the heirs of late Radhashyam Das Adhikary, by deleting the name of Kamala, since the other heirs of Kamala were already in the list of the proposed substituted respondents.
3. CAN 4 of 2025 is an application for setting aside abatement on condonation of delay.
4. Upon hearing learned counsel for the parties, we find that sufficient and plausible explanation for the delay in making the applications have been made out.

5. Accordingly, CAN 4 of 2025 is allowed, thereby setting aside the abatement on condonation of delay in making the substitution application on the demise of the original respondent no. 1-Radhashyam Das Adhikary.
6. Consequentially, CAN 3 of 2025 and CAN 5 of 2025 are also allowed, thereby directing the heirs and legal representatives of the deceased original respondent no. 1 Radhashyam Das Adhikary, the particulars of whom have been furnished in CAN 5 of 2025, to be substituted in place and stead of the said deceased.
7. The necessary consequential corrections to the Memorandum of Appeal and the pending application for stay shall be carried out by the learned Advocate-on-record for the appellants by tomorrow.
8. CAN 1 of 2023 is an application for condonation of delay in preferring the appeal.
9. It has been stated by the appellants that the appellants were not aware of the ex parte order of disposal passed in respect of the writ petition, bearing WP No. 24484(w) of 2012, from which the present appeal arises, at the relevant juncture.

Immediately upon learning of the same, the present appeal has been preferred.

10. Upon hearing learned counsel for the parties, we find that sufficient reasons for the delay have been made out.
11. Accordingly, CAN 1 of 2023 is allowed, thereby condoning the delay in preferring MAT No. 1044 of 2023.
12. There will be no order as to costs.
13. Now, we take up the appeal for hearing along with the stay application.

Re: MAT 1044 of 2023

14. The present challenge has been preferred against two orders passed in WP No. 24484 (w) of 2012. By the first order dated March 15, 2023, the learned Single Judge disposed of a writ petition filed by the present private respondents, *inter alia*, directing the B.L. & L.R.O., Sabong, Paschim Medinipur to forthwith take a decision in terms of a decree of the civil court passed in favour of the writ petitioners. Simultaneously, the learned Single Judge observed that in the application for vacating the interim order passed in connection with the writ petition, which was filed by the present appellants, no tenable

defence had been advanced to the prayers made in the writ petition and also expressed surprise that the B.L. & L.R.O., Sabong had not taken a decision despite orders of this court passed in writ petitions as well as orders of the LRTT.

15. It was also ordered by the learned Single Judge that the B.L. & L.R.O., Sabong shall take a decision in the matter of rectification of the Records of Rights in favour of the writ petitioners as applied by them within a period of one month from the date of the order, mandatorily and positively. The Sabong Police Station, it was observed, may be approached by the writ petitioners for appropriate protection and a decision may be taken by the police for deployment of a picket at the petitioners' cost after assessing threat perception.
16. Learned counsel appearing for the appellants argues that in respect of 6 decimals of land, which was a portion of the subject matter of the dispute between the parties, a *patta* has been granted by the State in favour of the present appellants.
17. As such, it is argued that in the same breath with the B.L. & L.R.O. having been directed to consider the matter, a direction upon the police authorities could not have been granted to

protect the alleged possession of the writ petitioners/present private respondents.

18. Learned counsel for the appellants further submits that it would be evident that the West Bengal Land Reforms and Tenancy Tribunal had previously directed a representation of the private respondents to be considered, upon which the concerned B.L. & L.R.O., by an order dated July 10, 2012, had *inter alia* observed that during field enquiry, it was observed that the applicants/appellants are in possession of the plots in question and they are continuing cultivation over the plots.
19. The present appellants, who were the applicants before the B.L. & L.R.O., were thus found to be in possession of the property. However, the B.L. & L.R.O. ultimately observed that since the appellants had not delivered any share of the produce to the land owner, they were not *bona fide* cultivators and accordingly, not *bargadars* within the contemplation of the statute.
20. Be that as it may, it is argued that since subsequently *patta* was granted in respect of 6 decimals to the appellants, the learned Single Judge erred in law in directing the police to protect the alleged possession of the present private

respondents, despite the appellants herein having been recorded to be in possession, that too on the strength of a *patta* at least in respect of a portion of the property.

21. By the second consequential impugned order dated March 21, 2023, minor corrections were made to the initial order dated March 15, 2023.
22. Learned counsel for the appellants thus argues that the impugned order directing police protection to be given ought to be set aside and the *patta* granted in favour of the appellants, which was not considered by the learned Single Judge, ought also to be taken into consideration by the B.L. & L.R.O.
23. Learned counsel appearing for the private respondents places reliance on the decree passed by a civil court in favour of the present private respondents, who were the writ petitioners before the learned Single Judge, in Title Suit No. 49 of 1978, dated March 12, 1982. In the judgment preceding the said decree, it is pointed out, the learned Civil Court recorded that despite having been given many chances to bring the records and file documents to prove that the subject property had vested in the State, not a scrap of paper was filed by the State/defendants to show that the suit properties had been vested in

the State. Thus, the Civil Court held that the defendants/State had failed to prove that the suit properties had been vested in the State.

24. Accordingly, the suit was decreed, thereby declaring the 16 *annas* right, title, interest and possession of the plaintiffs therein (present private respondents) over the suit properties. The said judgment and decree were challenged by the State in appeal. However, ultimately, the said appeal was also dismissed, thereby affirming the order of the Civil Court. Thus, it is argued by the private respondents that the State, in the absence of any vesting, could not have even granted *patta* in favour of the present appellants.
25. Learned counsel appearing for the private respondents seeks also to rely on a notice given by the concerned B.L. & L.R.O. to the interested parties, including the present appellants, in connection with a proceeding for annulment of the *patta* granted in favour of the present appellants. A copy of the same is submitted to court. Thus, it is evident, as per learned counsel for the private respondents, that since the B.L. & L.R.O. himself took a stand that *patta* had been inadvertently granted in favour of the appellants and an annulment

proceeding having been initiated *suo motu*, it does not lie in the mouth of the appellants to claim any title to the property on the basis of such *patta*.

26. Learned counsel for the private respondents before us also takes the court through numerous orders passed in favour of the private respondents under Section 144 of the Code of Criminal Procedure and orders of implementation by police assistance, passed by different Benches of this Court. By virtue of the said orders, the police were repeatedly directed to protect the possession of the private respondents. Thus, it is argued that the learned Single Judge was perfectly justified in directing the B.L. & L.R.O. to take into consideration the circumstances and take a decision in terms of the decree of the Civil Court. It is further submitted that the direction on the police authorities to take appropriate action was in consonance with the previous directions passed by different Benches of this Court.
27. Learned counsel appearing for the State submits that the impugned order was passed in connection with a police inaction writ petition. As such, it is submitted that the

observations regarding the B.L. & L.R.O. and the rights of parties were beyond the prayers made in the writ petition.

28. Upon a careful consideration of the respective arguments of the parties, we find a peculiar state of affairs insofar as the subject plots are concerned. There is a standing Civil Court's decree, affirmed in appeal, which has attained finality, whereby it was held that the State has failed to show that the subject property vested in it and the present private respondents before us have been declared to be 16 *annas* owners having right, title and interest as well as possession in respect of the disputed properties. Thus, *prima facie*, the State did not have any authority to grant *patta* in favour of the present appellants.
29. Despite no appeal having been preferred by the present private respondents before the competent authority against the grant of *patta* in favour of the appellants, a *suo motu* annulment proceeding has already been initiated, which is evidenced by the copies of the notice under Section 57 of the West Bengal Land Reforms Act, 1955 which have been handed over today before us the learned counsel for the private respondents. Thus, the so-called *patta* granted in favour of the appellants is also in jeopardy.

30. On the contrary, we find a direction of the Tribunal on the B.L. & L.R.O. to consider the representation of the present appellants on the strength of the purported *patta* granted in their favour.
31. Thus, the concerned B.L. & L.R.O. is in a completely unenviable position, being relegated virtually to the status of a Civil Court to decide on the respective effects of the Civil Court's decree, as opposed to the *patta* granted in favour of the appellants.
32. Although the private respondents before us have a point in arguing that the *patta* granted in favour of the appellants was *prima facie* unlawful in the teeth of the Civil Court's decree, until and unless the said *patta* is annulled, it cannot be said that the appellants are completely denuded of any rights in the property. We come to the above observation particularly since the present appellants were not parties to the suit where the decree in question was obtained by the private respondents, declaring their title. Thus, in law, although the State was a defendant in the said suit and is bound by the decree and thus, could not have granted *patta* in favour of the appellants even in respect of a portion of the decretal property, the appellants,

despite being beneficiaries of such irregular action, cannot *per se* be said to have come with unclean hands, since they are not bound by the Civil Court's decree, having not been arrayed as parties to the suit in which the decree was passed. The peculiar predicament can reach a logical conclusion only upon the annulment proceedings initiated by the B.L. & L.R.O. being disposed of finally.

33. However, it would not be prudent to merely rely on the civil court's decree, which is not binding on the appellants *ipso facto*, as well as on the previous directions on the police authorities to protect the possession of the private respondents, since the B.L. & L.R.O., in his subsequent orders, have recorded that although possession was handed over to the private respondents pursuant to the Civil Court's decree, subsequently they have been dispossessed by the present appellants, which is evidenced by the field enquiry report referred to above.

34. Hence, a two-fold enquiry is now required to be made. First, it is to be ascertained as to who is in occupation of the property, before granting police help in consonance of the earlier directions of this Court, in view of the changed circumstances

as narrated above. A blanket direction of police help, merely relying on the earlier directions of this Court but without taking into consideration the subsequent developments as narrated above, in our opinion, is not tenable or proper in the eye of law.

35. Moreover, the learned Single Judge has directed the B.L. & L.R.O. to take a decision only in terms of the decree of the Civil Court and virtually has directed the B.L. & L.R.O. outright to rectify the Records of Rights in favour of the writ petitioners/present private respondents. However, the said directions are self-contradictory, since if the Court directs the B.L. & L.R.O. to take a decision, in the same breath, the Court cannot tell the B.L. & L.R.O. as to what the decision will be. Passing a direction to the effect that the B.L. & L.R.O. shall outright rectify the Records of Rights in favour of the writ petitioners would tantamount to prejudging the consideration for which the matter was relegated to the B.L. & L.R.O. in the first place. Also, direction upon the police to protect the alleged possession of the private respondents at this stage would frustrate the hearing before the B.L. & L.R.O. and pre-empt

such exercise. Hence, such mutually contradictory directions cannot be sustained.

36. Thirdly, we find that at present, it is doubtful as to who is in possession of the property, since the field enquiry report entertained by the B.L. & L.R.O. in a valid proceeding records that subsequent to the properties being handed over to the private respondents, they were dispossessed and the appellants are now in possession.
37. Also, we cannot discard outright the *patta* granted in favour of the appellants, unless it is annulled in due process of law.
38. Keeping in view such factors, we are of the opinion that the direction on the police authorities, as issued in the impugned order, is premature and ought to be set aside.
39. However, the concerned B.L. & L.R.O. is required to expedite the proceeding for annulment of the *patta* granted in favour of the appellants in order to give a terminus to the entire dispute between the parties.
40. As such, MAT 1044 of 2023 is allowed in part, thereby setting aside the impugned order insofar as the Sabong Police Station was directed to deploy police picket at the petitioners' cost upon being approached by the writ petitioners. However, we

retain the direction on the B.L. & L.R.O., upon modifying the scope of such consideration by the B.L. & L.R.O., and hereby direct the B.L. & L.R.O. to take into consideration the Civil Court's decree along with the *patta* granted in favour of the appellants, in coming to a conclusion as to the present status and possession of the property.

41. However, such exercise shall be completed by the B.L. & L.R.O. only after completion of the proceeding initiated for annulment of the *patta* of the appellants. Thus, the B.L. & L.R.O. shall first conclude the proceedings *suo motu* initiated by the B.L. & L.R.O. for annulment of the *patta* granted in favour of the appellants in accordance with law, upon giving an opportunity of hearing to all interested persons, including the present appellants, the private respondents as well as the State authorities. Such exercise shall be concluded as expeditiously as possible, positively by the end of February, 2026.
42. Upon concluding such proceedings, a reasoned order shall be passed with regard to the same, which shall be communicated to all the concerned parties at the earliest. Immediately thereafter, the B.L. & L.R.O. shall, on the premise of the

adjudication of such annulment proceeding, consider the representations pending before him at the behest of the appellants as well as the private respondents, if any, come to a conclusion in that regard and pass a reasoned order on the same, which will also be communicated to the parties concerned.

43. CAN 2 of 2023 is also disposed of consequentially.

44. There will be no order as to costs.

45. 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.)

(Supratim Bhattacharya, J.)

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Ct No.16
16.12.2025
(SSS)