

Court No. 6
(265719)

07.07.2025

(A 5)

(S. Banerjee)

CO 2350 of 2025

Sumoni Mukherjee & Anr.
Vs.
Mohendranath Panja & Anr.

Mr. Haradhan Banerjee
Mr. Partha Pratim Mukhopadhyay
Mr. Amitabha Pain
Mr. Suresh Kumar Sahoo

...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the preemptor and is directed against a judgment and order dated December 9, 2024 passed by the learned Additional District Judge, 5th Court, Howrah in Misc. Appeal No. 206 of 2016.

By the judgment and order impugned the miscellaneous appeal was dismissed upon holding that the preemption application was not maintainable as the preemptor at the time of filing of the application under Sections 8 and 9 of the West Bengal Land Reforms Act, 1955, only deposited Rs. 20,000/- and not the entire sale consideration of Rs. 1,50,000/-. The learned judge of the first appellate court took note of the recent decision of the Hon'ble Supreme Court in the case of *Barasat Eye Hospital & Ors. -Vs.- Kaustabh Mondal*, reported in (2019) 19 SCC 767 wherein it has been held that the

deposit of the full amount of stated sale consideration and further 10% of that amount along with preemptor's application for transfer of land within the time prescribed under Section 8(1) is a mandatory pre-condition for operation of Section 8 as well as Section 9 of the West Bengal Land Reforms Act.

Mr. Banerjee, learned advocate appearing for the petitioners submitted that the issue as to whether an application for preemption of a Bastu land is maintainable, is pending before the larger bench. On such ground he prayed for an adjournment.

Be that as it may, since the application for preemption was filed without depositing the stated sale consideration together with 10% thereon, this court is of the considered view that no useful purpose will be served in keeping this civil revision application pending. The judgment and order passed by the learned Judge of the appellate court does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

For such reason, the prayer made by Mr. Banerjee, learned advocate for the petitioners, is rejected.

Accordingly, CO 2350 of 2025 stands dismissed. However, there shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)