

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya**

**FMA 1231 of 2025
with
CAN 1 of 2025
CAN 2 of 2025**

**THE SUB-DIVISIONAL OFFICER, RAIGANJ
VS.
GADADHAR DAS & ORS**

For the appellant : Mrs. Jhuma Chakraborty, Sr. Govt. Advocate
Ms. Munmun Tewary

For the
respondent no.1 : Mr. Saikat Chatterjee
Mr. Md. Abdur Rakib
Mr. Biswajit Sarkar
Ms. Satabdi Bhattacharya

For the applicants: Mr. Bhagbat Chauduri

Heard on : 22.12.2025

Judgment on : 22.12.2025

Sabyasachi Bhattacharyya, J.:-

In Re : I. A. No. CAN 2 of 2025

1. CAN 2 of 2025 is an application for addition of party.
2. Learned counsel for the applicants submits that the applicants are villagers on whose complaint a proceeding for annulment of *Patta*

granted to the writ petitioner/private respondent was initiated by the State authorities.

3. Challenging such proceeding, a writ petition was preferred at the behest of the present respondents.
4. Upon the writ petition having succeeded, the State authorities have preferred the present appeal.
5. It is argued that since the present applicants have a direct stake in the outcome of the appeal as well as the writ petition, the applicants ought to have been impleaded in the writ petition and are necessary parties in the present appeal.
6. Upon hearing learned counsel for the State as well as the applicants and the writ petitioner/private respondent, this Court is of the opinion that in view of the entire genesis of the dispute being the complaint of the applicants as well as the outcome of the appeal having a direct bearing on the applicants, the applicants are necessary parties to the appeal.
7. Accordingly, CAN 2 of 2025 is allowed, thereby impleading the applicants as proforma respondents in the present appeal.
8. Necessary consequential corrections shall be carried out by the learned advocate-on-record for the appellants during the course of the day in the Memorandum of Appeal.

In Re : FMA 1231 of 2025

9. The present appeal has been preferred by the respondent authorities against an order by the learned Single Judge whereby the learned Single Judge entertained the writ petition and set aside an order passed by the Jurisdictional Sub-Divisional Officer under Section 49(2) of the West Bengal Land Reforms Act, 1955.
10. Learned counsel appearing for the State / appellants contends that the learned Single Judge acted palpably without jurisdiction in entertaining the writ petition under Article 226 of the Constitution of India, in view of an appeal being maintainable under Section 54 of the West Bengal Land Reforms Act, 1955 against any order passed under Section 49(2) of the said Act, which is an equally efficacious alternative remedy.
11. Secondly, under Section 6 of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, the appropriate forum for a challenge from an order passed by an authority under any of the 'specified Acts' under the said statute is the Land Reforms and Tenancy Tribunal. Since the 1955 Act is a 'specified Act' under the said statute, it is contended that the writ court could not assume the jurisdiction of the Tribunal.
12. Thirdly, it is submitted that the learned Single Judge recorded in paragraph no.12 of the impugned order that it appears that the order under challenge had been passed by the Sub-Divisional Officer,

Raiganj, Uttar Dinajpur. However, it was recorded, that on perusal of Section 49(2), it appeared to the Court that only a Revenue Officer is empowered to pass an order in writing regarding annulment of *Patta* and no explanation had been given on behalf of the State as to how and as to why instead of a Revenue Officer, the jurisdictional Sub-Divisional Officer passed the order under challenge.

13. Learned counsel for the State places reliance on Clause 209 (iii) of the West Bengal Land and Land Reforms Manual, 1991 to contend that as per the said provision, the Sub-Divisional Officer has been appointed as Revenue Officer for the purposes of Section 49(2). Under sub-Clause (ii) of Clause 209, the Revenue Officer, it is argued, may also start an annulment case *suo motu* or on application. Thus, it is argued that the learned Single Judge proceeded on a patently erroneous premise while holding that the Sub-Divisional Officer did not have the jurisdiction to pass the annulment order.
14. Upon hearing learned counsel for the parties as well as the added respondents, we find substance in the arguments of the appellants.
15. Under Section 54 of the West Bengal Land Reforms Act, 1955, an appeal is maintainable against an order passed under Section 49(2) of the said Act by the Sub-Divisional Officer before the appellate authority designated in the Act.

- 16.** In fact, in the present case, an appeal has already been preferred under the said provision by the writ petitioner / private respondent herein. Hence, the writ petitioner / private respondent could not be permitted to forum-shop by preferring challenges before two different forums against the said order. From the prayer made in the writ petition, we find justification in the argument of the appellants that the writ petition sought to challenge the very order of the Sub-Divisional Officer under Section 49(2) which is also under challenge before the appellate authority, at the behest of the writ petitioner himself.
- 17.** That apart, the learned Single Judge, sitting in writ jurisdiction under Article 226 of the Constitution of India, bypassed as many as three fora of challenge by assuming jurisdiction.
- 18.** Apart from an appeal being maintainable under an order passed under Section 49(2), a further challenge against such appellate authority's order is available before the Land Reforms and Tenancy Tribunal. Against the order of the Land Reforms and Tenancy Tribunal, an application under Article 226 of the Constitution of India is maintainable, that too, before a Division Bench of this Court. By passing the impugned order, thus, the learned Single Judge bypassed three forums of challenge and exercised jurisdiction which this Court, under the self-same provision, that is, under Article 226 of the Constitution, could only exercise sitting in Division Bench as the

hierarchically third forum of challenge. Thus, there was a confusion of a forum in passing the impugned order, which itself tantamounts to a jurisdictional error.

- 19.** Even otherwise, learned counsel for the appellants has rightly argued that in view of Clause 209 (iii) of the West Bengal Land and Land Reforms Manual, 1991, it is the Sub-Divisional Officer who has been appointed as Revenue Officer for the purposes of Section 49(2) of the 1955 Act and the said Sub-Divisional Officer may start an annulment case even *suo motu*, apart from on an application. Thus, in the present case, the ground as cited in paragraph no.12 of the impugned order, to the effect that the Sub-Divisional Officer does not have jurisdiction, is *de hors* the law. In view of the above, we do not find the impugned order to be tenable in the eye of law.
- 20.** Accordingly, FMA 1231 of 2025 is allowed on contest, thereby the setting aside the impugned order dated June 19, 2025 passed in WPA 10834 of 2025 without any order as to costs.
- 21.** Consequentially, CAN 1 of 2025 also stands disposed of.
- 22.** It is, however, made clear that this Court has not entered into the merits of the challenge against the order of the Sub-Divisional Officer now pending in the appeal under Section 54 of the West Bengal Land Reforms Act, 1955 at the behest of the writ petitioner / private respondent. The appellate authority shall decide the said appeal

independent of any observations made herein and in accordance with law, without being unduly influenced by any of our observations insofar as the merits of the said appeal is concerned.

- 23.** It is expected that in view some amount of delay already occasioned due to pendency of the litigations before this Court, the appellate authority shall decide the appeal as expeditiously as the business of the said authority permits, preferably within four working months from the date of communication of this order to the said authority.
- 24.** All parties shall act on the basis of the server copy of this order, duly downloaded from the official website of this Court.
- 25.** Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)