

06.08.2025
rc/ct.no.06
Item No.33

C.O.No. 2788 of 2025
Sri Premananda Das & Anr.
Versus
Smt. Jharna Das & Ors.

Mr. Partha Pratim Roy
Mr. Subhas Jana
Ms. Mohua Palit ...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the preemptor and is directed against the judgment and order dated May 22, 2025 passed by the learned Additional District Judge, Haldia, Purba Medinipur in Miscellaneous Appeal No. 30 of 2023.

The petitioner herein filed an application under Section 8 read with Section 9 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as ("the 1955 Act")), praying for an order of preemption in respect of the transfer made vide registered deed of sale dated July 02, 2009.

The learned trial Judge allowed the preemption application being Judicial Misc. Case No. 46 of 2009 by an order dated April 05, 2016. The preemptee/opposite party herein challenged the said order before the learned District Judge, Tamluk, Purba Medinipur being Misc. Appeal No. 22 of 2016. The said appeal was renumbered as Misc. Appeal No.30 of 2023 and the learned Judge of the

Appellate Court allowed the miscellaneous appeal thereby rejecting the application for preemption.

Mr. Partha Pratim Roy, learned advocate appearing for the petitioner submits that the learned Judge of the Appellate Court had set aside the order passed by the learned trial Judge only on the ground that the preemptors had not deposited the entire sale consideration with additional 10% thereof along with preemption application.

Mr. Partha Pratim Roy, learned advocate for the petitioner, submits that the provisions of Section 8 of the Act of 1955 does not contemplate the deposit of the entire consideration money together with 10% thereof along with filing of the application. He submits that if the balance amount is deposited subsequently, the preemption application could not have been dismissed.

It is not in dispute that till August 14, 2015, the petitioner did not deposit the balance amount. The preemption was sought for in respect of a deed of sale dated July 02, 2009. The petitioner has filed the application for preemption as a bargadar in respect of the impugned transfer. The period of limitation for filing an application under Section 8 of the 1955 Act at the instance of the bargadar is three months from the date of such transfer. The date of transfer is July 02, 2009. Mr. Roy, learned advocate for the petitioner may be right in contending that the balance amount may also be deposited subsequent to the filing of the application under Section 8

of the 1955 Act but the balance amount has to be deposited within the period of limitation for filing an application for preemption. In the case in hand, it is only after passing of the order dated August 14, 2015 that the petitioner had deposited the balance money. It is not in dispute that such deposit is well beyond the period of limitation for filing an application under Section 8 of the 1955 Act at the instance of the bargadar.

In view of the aforesaid discussion, this Court holds that the application filed by the petitioner under Section 8 of the 1955 Act was barred by limitation.

Thus this Court of the considered view that the ultimate conclusion of the learned Judge of the Appellate Court does not call for any interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India.

Mr. Partha Pratim Roy, learned advocate appearing for the petitioner submits that only the issue with regard to deposit of short consideration was considered by the learned Judge of the appellate Court and other issues were not dealt with.

Since this Court has held that preemption application was not maintainable as the entire consideration together with 10% thereof had not been deposited within the stipulated time limit, the other issues have become academic.

Accordingly, C.O.No. 2788 of 2025 stands dismissed.

There shall be, however, no order as to costs.

After this order is dictated Mr. Partha Pratim Roy, learned advocate appearing for the petitioner prays for liberty to the petitioner to approach the appropriate forum for return of the amount of consideration which the petitioner already deposited in the aforesaid preemption case. Liberty is given to the petitioner to approach the appropriate court for refund of the amount deposited by the petitioner. If such approach is made, the learned Judge is requested to take expeditious steps in respect thereof.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya,J)