

Form No. J(2)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

WPLRT 135 of 2025

Farida Khatun and others
Vs.
The State of West Bengal and others

For the petitioners	:	Mr. Samiran Mandal, Mr. Abhinaba Dan, Mr. Nitish Samanta
For the State	:	Mr. Sk. Md. Galib, Ld. Sr. Govt. Adv., Ms. Munmun Ganguly
Heard on	:	10.09.2025
Judgment on	:	10.09.2025

Sabyasachi Bhattacharyya, J.:-

1. Learned counsel for the petitioners files a fresh affidavit-of-service along with envelopes indicating that the postal articles sent to the private respondents have returned with the endorsement "refused", which tantamounts to good service.
2. Accordingly, in view of the short point involved, the writ petition is taken up for hearing.
3. Learned counsel for the petitioners submits that the writ petitioners, being aggrieved by an order passed by the concerned B.L. & L.R.O

under Section 50(1)(f) of the West Bengal Land Reforms Act, 1955 (for short “the 1955 Act”), has already preferred an appeal. In the said order under Section 50(1)(f), the Dealing Assistant was directed to forward the matter to the Additional District Magistrate and District Land and Land Reforms Officer (D.L. & L.R.O), South 24 Parganas with the case records for necessary correction as per the existing provision of law. It is submitted that despite such direction and the pendency of the appeal at the behest of the petitioners, a fresh notice was issued by the concerned B.L. & L.R.O, purportedly under Section 57, read with Sections 50 and 50A of the 1955 Act, in connection with Miscellaneous Case No. 686 of 2023. Challenging such issuance of notice on the ground of prior pendency of the appeal as well as no permission being obtained by the B.L. & L.R.O from the D.L. & L.R.O, the writ petitioners preferred an original application before the West Bengal Land Reforms and Tenancy Tribunal. However, the learned Tribunal, by the impugned order dated July 15, 2025, held that the original application was not maintainable in its present form and in the eye of law under Section 10(3)(a) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, observing further that the order would not preclude the applicants from preferring appeal before the Appropriate Authority in accordance with law.

4. It is submitted that the notice impugned before the Tribunal is not amenable to an appeal either under Section 51A(5) or under Section 54 of the 1955 Act and, as such, the Tribunal refused to exercise

jurisdiction vested in it by law by relegating the matter to the “Appropriate Authority”.

5. Learned Senior Government Advocate places reliance on the averments made in the original application, to the effect that the B.L. & L.R.O., without waiting for permission from the office of the Additional District Magistrate and D.L. & L.R.O., proceeded for correction of the records of rights.
6. However, we accept the argument of the writ petitioners to the effect that the notice impugned before the original application is not amenable to challenge either under Section 54 of the 1955 Act, since it is not an “order” passed by any authority under the said Act, nor under Section 51A(5), against which an appeal could lie, as there has not arisen any occasion as yet for any correction of the records of rights having been effected but the matter is still at the inchoate stage of issuance of a notice.
7. Despite the argument of the State that the notice is in continuation of the previous proceeding, fact remains that a challenge to a notice cannot be preferred under any of the provisions of the 1955 Act to any Appellate Authority. Hence, the learned Tribunal refused to exercise jurisdiction vested in it by law in holding that the original application, challenging the impugned notice annexed at page-103 of the present writ petition, is not maintainable, as there is no other equally efficacious alternative remedy before the writ petitioners.

8. Hence, WPLRT 135 of 2025 is allowed on contest, thereby setting aside the order dated July 15, 2025 and directing the learned Tribunal to decide the original application of the writ petitioners bearing O.A. 1591 of 2025 on merits, upon giving adequate opportunity of hearing to all the contesting parties and in accordance with law, as expeditiously as the business of the Tribunal permits.
9. There will be no order as to costs.
10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)