

D/L.39.
April 16, 2025.
MNS.

SAT No. 152 of 2023

Majibul Islam
Vs.
Sukumar Das

Mr. Baidurya Ghosal,
Mr. Sourav Mukherjee,
Ms. Anupama Biswas

... for the respondent no. 1.

1. The appeal has been listed on being mentioned by respondent no. 1.
2. Although under normal circumstances the respondent does not have a right of hearing at the stage of hearing under Order XLI Rule 11 of the Code of Civil Procedure, in view of the appeal not being palpably maintainable, we entertain the mentioning of appeal at the behest of the respondent no. 1, more so since a prior notice of such mentioning had been given to the learned Advocate for the appellant, which is evident from the receipt filed in court today. The same be kept on record.
3. The present second appeal has been preferred against a judgment of affirmance passed by the court of first instance as well as the first appellate court in connection with a petition under Section 8 of the West Bengal Land Reforms Act, 1955 (in short, "the said Act").

4. Since no further / second appeal is provided for in the statute against the order passed in a miscellaneous appeal preferred against an order passed under Section 8 of the said Act, and as the orders impugned herein are not decrees passed by a civil court in a regular civil suit, the present second appeal is *ex facie* not maintainable.
5. Accordingly, SAT No. 152 of 2023 is dismissed as not maintainable without any order as to costs.
6. It is, however, made clear that we have not entered into the merits of the case and the above dismissal shall not preclude the appellant from preferring a properly constituted challenge as otherwise permitted in law and subject to the law of limitation.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)