

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

WPLRT No. 144 of 2025

Sri Surjaya Kumar Das
-vs-
The State of West Bengal and others

For the petitioner : Mr. S. P. Dalapati,
Mr. Pritam Choudhury,
Mr. K. P. Sahoo,
Mr. Tamal Taru Panda.

For the State : Mr. Ayan Banerjee,
Ms. Priyambada Singh.

For the respondent
nos. 5 and 6 : Mr. Gourav Ghoh,
Mr. Sudip Kushari,
Mr. Suman Bhattacharya

Heard on : September 16, 2025.

Judgment on : September 16, 2025.

Sabyasachi Bhattacharyya, J.:

1. The supplementary affidavit filed by the petitioner be kept on record.

2. The present challenge has been preferred against a remand order passed by the Tribunal.
3. The brief background of the case is that the property-in-dispute stands recorded in the name of the writ petitioner. The private respondent nos. 5 and 6, by an application made before the concerned Block Land & Land Reforms Officer (BL&LRO), sought a rectification of the recording of name in the records of rights and mutation in the names of the said respondents.
4. The BL&LRO having turned down such application, an appeal was moved before the Appellate Authority, that is, the District Land & Land Reforms Officer (DL&LRO), who also affirmed the order of the first authority.
5. Being aggrieved against the same, the private respondent nos. 5 and 6 moved an Original Application before the Tribunal, whereupon the Tribunal remanded the matter to the Appellate Authority, permitting the private respondents to produce all documents in support of their claim of title to the subject property.

6. In the second round, only one deed, bearing no. 5122 of 1960, was produced by the private respondents in support of their claim of title.
7. By an order dated January 29, 2025, the Appellate Authority recorded that the names of the transferors in the said deed was different from that recorded in its previous order dated March 14, 2024. The matter was fixed for hearing on March 25, 2025 by the order dated January 29, 2025. Thereafter, by an order dated March 14, 2025, the Appellate Authority recorded that as per pre-scheduled date and time of hearing, both the writ petitioner and the respondents were present with their respective counsel.
8. The Appellate Authority, however, by a cryptic order, recorded merely that scrutinizing all the relevant documents, it appeared that the chain of title is required to manifest the claim of the appellants. Without it, it was observed, the sequence of title cannot validate any connection with the issues raised.
9. Upon such observations, the case was dismissed “for default”.

10. However, it was also recorded that as per Section 50 of the West Bengal Land Reforms Act, 1955 (in short “the 1955 Act”), title was never proved without any valid title deed or chain of title.
11. In the second round of litigation, another challenge was preferred against the said subsequent order of the Appellate Authority before the Tribunal by the private respondent nos. 5 and 6, whereupon the Tribunal, by the impugned order dated July 14, 2025, remanded the matter again to the Appellate Authority for giving another opportunity to the private respondents to produce all documents relied on them, including back deeds, inter alia on the premise that the date of hearing was shifted back without notice to the private respondents and was dismissed for default.
12. Being aggrieved by the said order of the Tribunal, the present writ petition has been preferred.
13. Learned counsel for the petitioner contends that the premise on which the Tribunal remanded the matter is erroneous, as, although on January 29, 2025, March 25, 2025

was fixed as the next date, the said date was subsequently shifted back with full notice to both parties, which is evident from the fact that the private respondents were also present on March 11, 2025, when the order of the Appellate Authority was passed. Moreover, the appeal was decided on merits upon hearing both sides and was not a dismissal for default.

14. That apart, it is argued that despite having several opportunities, the private respondents failed to produce the chain deeds, which led up to the last title deed, allegedly conferring title on the private respondents.

15. In such view of the matter, it is submitted that the impugned order of the Tribunal is bad on both scores.

16. Learned counsel appearing for the private respondents contends that the private respondents produced the chain deeds before the Tribunal by way of an affidavit.

17. It is contended that the next date was fixed by the Tribunal as March 25, 2025 by the order dated January 29, 2025, but without sufficient opportunity to the private respondents to

produce all documents, the matter was taken up on March 11, 2025.

18. Upon hearing learned counsel for the contesting parties as well as the State, we find certain salient features in the matter.
19. Insofar as the allegation of the private respondents, that sufficient opportunity to produce documents was not given to them by the Appellate Authority in the second round of litigation before shifting back the date from March 25, 2025 to March 11, 2025, is concerned, we do not find from the Original Application filed before the Tribunal that any objection was raised by the private respondents to the effect that sufficient opportunity was not given to the private respondents to produce documents.
20. We do not find a single line in the Original Application as regards the date being shifted back without ample opportunity or notice to the private respondents.
21. As such, the said allegation cannot be made for the first time in the present writ petition.

22. Also, the order dated March 11, 2025 records clearly that date and time of hearing was pre-scheduled and that both the contesting parties were present with their respective counsel.
23. Furthermore, before the Appellate Authority, no issue was raised as to ample opportunity not being given to the private respondents to produce their documents.
24. As such, the reason recorded by the Tribunal for remanding the matter, to the effect that the appeal was dismissed for default without giving adequate opportunity to the private respondents to produce documents, is erroneous.
25. The second feature in the order of the Appellate Authority is that by the order dated March 11, 2025, although observations were made on merits to the effect that the title of the private respondents was never proved by chain deeds, it was erroneously recorded that the case was dismissed for default.
26. Yet, such expression “dismissed for default” was qualified by the immediately subsequent sentence that as per Section 50 of the 1955 Act, title was never proved without any valid

title deed or chain of deeds and that the case was accordingly “disposed of”. Thus, the expression “for default” was evidently a misnomer and does not *per se* signify that no opportunity of hearing was given to the private respondents.

27. However, the third and broader issue is how the matter was disposed of after remand by the Appellate Authority. The Appellate Authority, in its order dated March 11, 2025, proceeded in an absolutely cryptic manner.

28. It was recorded by the Appellate Authority in its order dated January 29, 2025 that the name of the transferors which was evident from the deed produced by the private respondents (that is, Deed No. 5122 of 1960) did not tally with the names of the transferor as recorded in its previous order dated March 14, 2024. However, such observation does not mitigate the duty of the Appellate Authority to advert to the deed produced before it, merely because the Appellate Authority itself had erroneously recorded the names of the transferors in such deed on an earlier occasion.

29. Since the deed itself showed the name of the transferors, no option was available to the Appellate Authority to rely on its previous order to disbelieve the validity of the said deed. It was for the appellate authority to proceed on the basis of Deed no. 5122 of 1960 and whatever were the contents thereof for the purpose of adjudicating the dispute.

30. A presumption of correctness is attached to a registered title deed, unless rebutted. As such, it was incumbent upon the Appellate Authority to ascertain as to whether the deed produced by the respondents *per se* indicates title of the private respondents in the disputed property, in the absence of any cogent rebuttal evidence having been produced by the writ petitioner.

31. Under normal circumstances, unless there was some specific reason to disbelieve the title deed, which would then be required to be recorded by the Appellate Authority, the Appellate Authority was not justified in dismissing the matter, despite the private respondents having produced their title deed, without either advertent to the contents of the said deed

or giving another opportunity to the private respondents to produce the chain deeds leading up to such transfer, if deemed necessary by the Appellate Authority. Instead, the Appellate Authority proceeded on a hyper-technical approach by not advertng to the title deed already produced by the private respondents on the one hand and, on the other, dismissing the appeal without granting any opportunity to the private respondents to produce their chain deeds, even if the Appellate Authority was of the opinion that such chain deeds would be necessary to come to a finding.

32. Thus, although we have recorded above that the reasons given by the tribunal for remanding the matter were inappropriate, still, upon supplying the above reasons, we are of the opinion that the conclusion of the tribunal in remanding the matter was justified.

33. Accordingly, we do not find any reason to interfere with the impugned order.

34. Hence, WPLRT 144 of 2025 is dismissed on contest.

35. It is expected that in view of the long delay due to pendency of the matter, the Appellate Authority, that is, the SD & LRO concerned, shall dispose of the appeal on remand, upon giving a further opportunity to the private respondents herein to rely Deed no. 5122 of 1960, which was already produced by them, as well as all chain deeds in support of their title. An opportunity shall also be given to the present writ petitioner and the State to place their respective arguments and versions and/or documents, if any, for a complete and comprehensive adjudication of the dispute between the parties.
36. It is expected that the entire exercise shall be completed as expeditiously as possible, positively by the end of December, 2025.
37. In view of the harassment caused to the present writ petitioner due to the private respondents having failed to produce all chain deeds before the Appellate Authority but having produced those for the first time before the Tribunal, the private respondents nos. 5 and 6 shall pay costs of Rs. 20,000/- to the writ petitioners within a fortnight from date.

38. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)