

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. 154 of 2025

Gorachand Bhunia and others
-vs-
The State of West Bengal and others

For the petitioner : Mr. Kapil Chandra Sahoo.

For the State : Sk. Md. Galib, Ld. Sr. Govt. Adv.,
Mrs. Jyotsna Roy Mukherjee.

Heard on : September 17, 2025.

Judgment on : September 17, 2025.

Sabyasachi Bhattacharyya, J.:

1. Learned counsel for the petitioners argues that the petitioners' vendor Bidhumukhi obtained a decree from a Civil Court against the predecessor-in-interest of one Srinath and the State to the effect that the said Bidhumukhi is the owner of 49 decimals of the subject-property.

2. Learned counsel contends that thereafter the property was purchased by the petitioners from Bidhumukhi and the petitioners sought to record their names in the Records of Rights on the strength of such purchase deed. However, the BL&LRO was sitting tight over the matter, prompting the petitioners to approach the concerned Tribunal, whereupon the Tribunal dismissed the application on the premise that in view of the property having already vested in the State, there was no scope for recording the names of the writ petitioners, who were post-vesting transferees.
3. Being thus aggrieved, the present writ petition has been preferred.
4. Learned counsel for the petitioners contends that since the State was a party to the suit and suffered the decree of a competent civil court, which has attained finality, in the absence of any appeal against the same, the Civil Court's decree is binding on the Tribunal and, as such, the impugned order of the Tribunal, on the strength of such erroneous findings, by relying on a pre-decretal vesting, should be set aside.

5. Learned Senior Government Advocate, by placing reliance on Section 57B of the West Bengal Estate Acquisition act, 1953 (in short “1953 Act”), argues that there is an absolute bar to the jurisdiction of the Civil Courts in respect of any matter which, under any of the provisions of the 1953 Act, is to be or already has been enquired into, decided and dealt with or determined by the State Government or any authority specified in the Act.
6. It is submitted on behalf of the State that by operation of Section 57B, any suit or application pending before a Civil Court would also stand abated if it relates to any of the matters referred to in Clauses (a), (b) or (c) of sub-section (2) of Section 57B of the 1953 Act.
7. Thus, the decree of the Civil Court, passed after the vesting in favour of the State, was a nullity in the eye of law. It is submitted that the writ petitioners, being post-vesting purchasers, did not acquire any title in the property at all.
8. Learned Senior Government Advocate, appearing for the State, places reliance on *Kiran Singh and others v. Chaman Paswan and others*, reported at (1954) 1 SCC 710, for the proposition that a decree passed by a court without jurisdiction

is a nullity and its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. The defect of jurisdiction, whether it is pecuniary or territorial or whether it is in respect of the subject-matter of the action, strikes at the very authority of the court to pass any decree and such a decree cannot be cured even by consent of parties.

9. Learned Senior Government Advocate further places reliance on *West Bengal Housing Board Vs. Pramila Sanfui and others*, reported at (2016) 1 SCC 743, where it was held that the Civil Court does not have jurisdiction to entertain any suit with respect to a property which has vested in the State in terms of the provisions of the 1953 Act.
10. Learned counsel also places reliance on *State of West Bengal and others Vs. Suburban Agriculture Dairy & Fisheries Private Limited and another* reported at 1993 Supp.(4) SCC 674 for the self-same proposition.
11. The Tribunal relied on *Brakewel Automotive Components (India) Private Limited Vs. P.R.Selvam Alagappan* reported at (2017) 5 SCC 371, where it was held by the Supreme Court

that an Executing Court can, in limited cases where the decree is by a court lacking inherent jurisdiction or is a nullity, hold that the decree is rendered *non est* and is, thus, inexecutable. It was further held that an erroneous decree cannot be equaled with one which is a nullity.

12. The question which arises is whether in view of the vesting, the notification in respect of which was produced by the State before the Tribunal, the civil court was denuded of the jurisdiction to decide on the self-same issue of title. As far as the provisions of Section 4 of the 1953 Act are concerned, the State Government may from time to time by notification declare that with effect from the date mentioned in the notification, all estates and the rights of every intermediary in each estates situated in any district or part of a district specified in the notification shall vest in the State free from all incumbrances.
13. Section 5 of the 1953 Act provides that upon the due publication of a notification under Section 4, on and from the date of vesting, the estates and the rights of intermediaries in the estate to which the declaration applies, shall vest in the State free from all incumbrances.

14. Thus, the vesting operates on and from the date of notification under Section 4 of the 1953 Act.
15. Although for the limited purpose of retention of land under Section 6 of the 1953 Act, it has been deemed by courts that the right of retention remains unless exercised by the intermediaries, fact remains that the vesting operates from the date of the notification, with a limited qualification that for the purpose of retention, the intermediaries may approach the appropriate authority later.
16. However, in the instant case, no case of any application or representation for retention of any land having been filed by the original intermediary, that is, the vendor of the writ petitioners Bidhumukhi, has been made out.
17. Thus, as evident from the notification produced before the Tribunal under Section 4 of the 1953 Act, the subject-property had already vested in the State on the date when the Civil Court's decree declaring the title of Bidhumukhi was passed.
18. Section 57B of the 1953 Act operates as an absolute bar of jurisdiction of the Civil Court, coming within the purview of "express bar" as contemplated in Section 9 of the Code of Civil Procedure. Thus, the Civil Court did not have jurisdiction

under Section 9 of the Code of Civil Procedure in the first place, in view of the express bar under Section 57 B of the 1953 Act, which hits at the very root of the inherent jurisdiction of the Civil Court to pass the decree, thereby rendering the decree a nullity *ab initio*.

19. Hence, even without any challenge to the same by way of an appeal, the decree, being a nullity, cannot be given effect to and/or be construed to override the vesting by operation of Section 4 of the 1953 Act in respect of the subject land.
20. In such view of the matter, the relegation of the consideration to the BL & LRO would be an empty formality and the learned Tribunal was justified in dismissing the Original Application of the writ petitioners on the ground that in the teeth of the vesting which had already occurred in favour of the State in respect of the subject land prior to the decree of the Civil Court obtained by the vendor of the writ petitioners, the said decree was a nullity and no title passed to the writ petitioners by the post-vesting transfer in their favour.
21. Accordingly, WPLRT No. 154 of 2025 is dismissed on contest, thereby affirming the judgment and order dated April 4 of 2025 passed by the Second Bench of the West Bengal Land

Reforms and Tenancy Tribunal, Kolkata, in OA No. 3260 of 2022 (LRTT).

22. There will be no order as to costs.

23. 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.)