

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

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

W.P.L.R.T. No. 156 of 2025

Sri Haradhan Puitandy and Ors.
Vs.
The State of West Bengal and Ors.

For the petitioners	:	Mr. Sharanya Chatterjee, Mr. Subhajit Barman, Advs.
For the respondent no. 5	:	Mr. Amal Kumar Banerjee, Adv.
For the State respondents	:	Sk. Md. Galib, Ld. Snr. Govt. Adv.
Heard on	:	September 22, 2025.
Judgment on	:	September 22, 2025.

Sabyasachi Bhattacharyya, J.:

1. Affidavit of service filed today be kept on record.
2. The brief backdrop of the present challenge is as follows:

3. The names of one Gopeshwar and one Kapileswar were recorded as joint owners of the disputed plot in the C.S. Records of Rights. The present writ petitioners claim through three sons of Gopeshwar, namely Bisheswar, Anadi and Dukhaharan whereas another son Kashinath apparently left no heirs.
4. As per the writ petitioners' case, the writ petitioners inherited the property of Gopeshwar through their respective fathers.
5. On the other hand, it transpires that in the R.S. Records of Rights, at least since the year 1959, the name of one Pashan Bala, which initially appeared in the Records of Rights, was scored through and the name of one Moti Bala introduced as "ezmali" (joint).
6. The writ petitioners have not challenged the said recording since decades, prior to the purchase of the property by the present private respondent. The cause of action for the writ petitioners approaching the concerned B.L. & L.R.O. for correction of the Records of Rights was the mutation of the property and consequential alteration in the Records of Rights exclusively in the name of the private respondent upon his purported purchase.

7. Learned counsel for the petitioners contends that since the name of the predecessors-in-interest of the present writ petitioners all along appeared throughout the C.S. Records and R.S. Records and Moti Bala's name was merely recorded with the rider "ezmali", there was no occasion for the concerned B.L. & L.R.O. to alter the L.R. Records of Rights, thereby introducing the name of the private respondent as exclusive owner, instead of the writ petitioners or their predecessors.
8. When the writ petitioners approached the concerned B.L. & L.R.O. for further rectification of their Records of Rights by altering the name of the private respondents and substituting in place the names of the writ petitioners by reverting the position back to as it was prior to the purported purchase by the private respondents, the same was refused by the B.L. & L.R.O., prompting the writ petitioners to prefer a challenge before the appellate authority. The appellate authority, on the basis of the recording in the R.S. Records to the effect that Moti Bala was recorded as "ezmali", whereas the predecessors-in-interest of the writ petitioners' names were also recorded, directed that the names in the Records of

Rights be altered to the tune of 50% in the name of the writ petitioners and the rest 50% in the name of the private respondent.

9. Being thus aggrieved, the present private respondent preferred a challenge before the Tribunal. The learned Tribunal, by the impugned order, set aside the order of the appellate authority on the grounds as set out in the impugned judgment, pursuant to which, it is alleged, the private respondent have approached the concerned B.L. & L.R.O. for reverting the records back to the original position in his name.
10. Learned counsel for the writ petitioners argues that while the learned Tribunal came to categorical findings that the parties were unable to produce any deed to show that Moti Bala purchased the portion of either Gopeshwar or Pashan Bala and the recording in the name of the private respondent, as the purchaser from Moti Bala, was erroneous, the learned Tribunal, instead of directing the B.L. & L.R.O. to rectify the Records of Rights and directing the entire property to be recorded in the name of the writ petitioners, merely set aside the order of the appellate authority as a whole, thereby, in effect, restoring the order of rejection by the B.L. & L.R.O., the

net effect of which would be that the recording in the name of the private respondent exclusively would be restored. It is argued that the component of 50% of the property, which was directed to be recorded by the appellate authority in the name of the writ petitioners, was not entered into by the Tribunal at all. The learned Tribunal, even without coming to any adverse finding or setting aside the direction to record 50% of the property in the name of the writ petitioners, in effect, set aside such portion of the appellate authority's order as well.

11. Learned counsel appearing for the private respondent submits that a purchase deed in favour of the private respondent was produced before the authorities. It is further argued that since the name of Moti Bala appeared in the R.S. Records in place of Pashan Bala (with the recording "ezmali") at least since 1959, which was never challenged throughout this period by the present writ petitioners prior to the purchase by the private respondents, the said challenge ought to have been turned down by the learned appellate authority on the ground of such inordinate delay alone. As such, it is submitted that the order of the Tribunal, to the tune that it has set aside the order of the appellate authority and restored the position as it was when

the name of the private respondent was recorded as the exclusive owner, was justified.

12. Heard learned counsel for the parties, including the State. We find *ex facie* that the finding of the learned Tribunal that the appellate authority invoked the jurisdiction of the civil court is incorrect, since the limited scope of adjudication of the appellate authority was co-extensive with that of the B.L. & L.R.O. who, under Section 51 of the West Bengal Land Reforms Act, 1955, has the power to correct or rectify the Records of Rights, if there are erroneous entries. For such limited purpose, the B.L. & L.R.O. and, by necessary implication, the appellate authority, are entitled to assess the *prima facie* evidentiary value of documents produced by all the concerned parties having interest, which documents might provide the foundational basis justifying the correction of the Records of Rights or otherwise. Hence, such an exercise by either the B.L. & L.R.O. or the appellate authority would not tantamount to exercising the jurisdiction of the civil court, since such exercise is confined to the correction of Records of Rights and not to conclusive declaration of the title of parties, which is in the domain of the civil court.

13. In any event, since the writ petitioners have already filed a civil suit claiming declaration of their title in the property, it would be within the domain of the civil court all the more to decide such issue.
14. The other ground cited by the learned Tribunal, to the effect that under Section 54, the appellate authority cannot correct the R.S. R.O.R., is also erroneous since it is the order of the B.L. & L.R.O., the first forum which definitely has the power to correct the R.S. R.O.R., whose order the appellate authority is sitting in challenge over under Section 54 of the 1955 Act. Hence, the powers which could be exercised by the first forum i.e. the B.L. & L.R.O. could very well be exercised by the appellate authority instead of unnecessarily remanding the matter back to the B.L. & L.R.O.
15. The problem, however, with the impugned judgment of the learned Tribunal is that while conclusively holding that the private respondents could not produce any document of purchase by Moti Bala, regarding any portion of Gopeshwar or Pashan Bala, admittedly two of the original co-owners of the property, without considering the sanctity of the title/rights claimed by the writ petitioners with regard to the property in

question, the entire order of the appellate authority was set aside by the Tribunal, thereby, in effect, cancelling the 50% recording in the name of the writ petitioners which had been directed by the appellate authority without any adverse inference being drawn against the writ petitioners and/or the portion of the appellate authority's order granting such 50% recording in the name of the writ petitioners being set aside or reversed in any manner. Such approach on the part of the learned Tribunal is *de hors* the law and as such, cannot be sustained.

16. The question which is now posed before us is whether to remand the matter to the Tribunal, the appellate authority or the B.L. & L.R.O. for a comprehensive adjudication of the issue.
17. The B.L. & L.R.O., we find, merely on the premise that the appropriate remedy would be before a civil court, turned down the entire prayer for correction of the Records of Rights made by the writ petitioners, thereby shirking the authority vested in it by law.
18. However, sending the matter back to the B.L. & L.R.O. at this belated stage would unnecessarily protract the litigation much

longer than would enure to the benefit of either of the parties. Rather, the D.L. & L.R.O., which was in *seisin* of the dispute and adjudicated the matter as the appellate authority, would be the appropriate authority which should re-adjudicate the matter, upon advertent to all documents produced by the parties and taking into consideration the argument of the private respondent to the effect that the recording of the property in the name of Moti Bala as “ezmali” along with the predecessors-in-interest of the writ petitioners has not been challenged for so long.

19. Also, the appellate authority ought to consider the arguments of the writ petitioners made before us to the effect that although the name of Moti Bala was recorded as “ezmali”, the names of the predecessors-in-interest of the writ petitioners were also recorded in respect of the self-same property without the qualification “ezmali” being there in their respect.
20. In such view of the matter, W.P.L.R.T. No. 156 of 2025 is disposed of on contest, thereby setting aside the impugned judgment of the Tribunal dated June 13, 2025 passed by the Third Bench, West Bengal Land Reforms and Tenancy Tribunal in O.A. No. 2270/2018 (LRTT) as well as the order of

the appellate authority which was challenged before the Tribunal and remanding the matter to the appellate authority i.e. the S.D.L & L.R.O., Asansol for re-adjudication of the entire dispute between the parties by taking into consideration all documents filed by the parties as well as all arguments advanced by the parties at length and upon consideration of the contentions of the parties regarding the nature of the recording as “ezmali” in the name of Moti Bala and without such qualification in the name of the predecessors-in-interest of the writ petitioners. While doing so, the appellate authority shall also take note of the absence of any challenge for a prolonged period to such recording by either of the parties. The appellate authority shall also grant opportunity to the parties to produce documents in support of the foundational facts justifying the recordings in the name of Moti Bala and the predecessors-in-interest of the writ petitioners during such hearing. The appellate authority shall, accordingly, dispose of the matter afresh in the light of the above observations upon giving ample opportunity of hearing and production of additional documents, if necessary, to all the interested parties as expeditiously as possible, positively by February 28, 2026.

21. There will be no order as to costs.

22. The parties and the Tribunal shall act on the server copy of this order, duly downloaded from the official website of this court.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)

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