

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

W.P.L.R.T. 166 of 2025

Argha Ash
Vs.
The State of West Bengal and others

With

W.P.L.R.T. 167 of 2025

Nabarun Ash
Vs.
The State of West Bengal and others

For the petitioner : Mr. Pinaki Ranjan Mitra

For the State
In WPLRT 166 of 2025 : Mr. Sk. Md. Galib
Ms. Priyamvada Singh

For the State
In WPLRT 167 of 2025 : Mr. Supratim Dhar
Mr. Sambuddha Dutta

Heard on : 27.10.2025

Judgment on : 27.10.2025

Sabyasachi Bhattacharyya, J.:-

1. Affidavits-of-service filed in court today be kept on record.

- 2.** The present challenge has been preferred against an order of the West Bengal Land Reforms and Tenancy Tribunal whereby the Tribunal has affirmed the conclusions of both the Appellate Authority and the concerned Block Land and Land Reforms Officer (BL & LRO), refusing to mutate the property in dispute in favour of the petitioners in both these matters.
- 3.** The ground on which mutation was refused was that the property belonged to minors at the juncture when they were transferred in favour of the petitioners and as such, since no prior permission was taken from the court for effecting such transfer, the authorities took the stand that the transfer itself was void under Section 8 of the Hindu Minority and Guardianship Act, 1956 (in short “1956 Act”).
- 4.** Learned counsel for the petitioners argues that even proceeding on the premise that the owners of the property at the juncture of transfer in favour of the petitioners were minors, there is nothing on record to show that the minors, after attaining majority, have moved court to have the transfer set aside on the ground of the same being voidable.
- 5.** Learned counsel appearing for the State in both the matters submit that a composite reading of sub-Sections (2) and (3) of Section 8 of the 1956 Act clearly indicates that there cannot be

any transfer without the previous permission of court by a natural guardian, if the real owner of the property is a minor.

- 6.** Learned counsel lay stress upon sub-Section (2) of Section 8 in particular in support of such contention.
- 7.** After hearing learned counsel for the parties, we are of the considered view that sub-Section (3) of Section 8 circumscribes cases both under sub-Sections (1) and (2) of Section 8 of the 1956 Act.
- 8.** Sub-Section (1) of Section 8 provides that the natural guardian of a Hindu minor has power, subject to the provisions of the Section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.
- 9.** On the other hand, sub-Section 2(a), which might be applicable in the present case, stipulates that the natural guardian shall not, without the previous permission of the court, transfer by sale any immovable property of the minor.
- 10.** Apparently, the tenor of sub-Section (2) is apparently mandatory by specific use of the expression "shall not".
- 11.** However, sub-Section (3) of Section 8 is an umbrella provision which applies to both sub-Sections (1) and (2).

- 12.** The said sub-Section provides that any disposal of immovable property by a natural guardian, in contravention of sub-Sections (1) or (2), is *voidable* (emphasis supplied) at the instance of the minor or by any person claiming under him.
- 13.** Thus, whatever might be the language of sub-Section (2), the same is overridden by sub-Section (3) which categorically stipulates that a transfer in contravention of sub-Section (2), that is, without the previous permission of the court, in respect of the immovable property of a minor by their natural guardian, is not void *ab initio* but voidable, that too only at the instance of the minor or by any person claiming under him.
- 14.** Thus, in the absence of anything to show that the minor owners of the property-in-question sought to avoid the transfer deed before any court of law or otherwise, it was beyond the authority of the Mutating Officer to refuse to mutate the property in favour of the transferees/petitioners.
- 15.** It is well-settled that while granting mutation, the authority concerned is only to look at whether there is a valid registered transfer deed in favour of the person applying for mutation.
- 16.** It is beyond the domain of the Mutating Authority to adjudicate the title of the transferee or applicant and/or to see whether the transfer is vitiated by illegality of any manner.

- 17.** Even otherwise, the lack of previous permission of the court in the present case cannot by itself render the registered deeds in favour of the petitioners null and void.
- 18.** Thus, the entire approach of the authorities below was erroneous and not sanctioned by law.
- 19.** Hence, WPLRT 166 of 2025 and WPLRT 167 of 2025 are allowed, thereby setting aside the respective orders impugned therein being the order dated May 23, 2025 passed by the Fourth Bench, West Bengal Land Reforms and Tenancy Tribunal in O.A. No. 1735 of 2020 (LRTT) and O.A. No. 1736 of 2020 (LRTT). The concerned BL & LRO is hereby directed to mutate the properties in dispute, which are the subject matter of the purchase deeds of the petitioners respectively, in favour of the petitioners as expeditiously as possible, positively within four working weeks from date.
- 20.** It is, however, made clear that nothing in this order shall prevent the owners of the property, who were minors at the relevant juncture, to seek to avoid the deeds executed in favour of the present petitioners in due process of law.
- 21.** The mutation granted in favour of the petitioners pursuant to the this order shall be subject to the outcome of such challenge, if any, preferred by the minors in that regard.
- 22.** There will be no order as to costs.

- 23.** Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)

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