

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. 111 of 2023
With
CAN 1 of 2023

Ramchandra Sutradhar and Ors.
Vs.
The State of West Bengal and Ors.

For the petitioners	:	Mr. Mrinal Kanti Ghosh, Mr. Chandranath Sarkar, Advs.
For the respondent no.6	:	Mr. Arup Krishna Das, Mr. Rajarshi Ghosh, Mr. Abdus Salam, Advs.
For the State	:	Mr. Supratim Dhar, Ld. Snr. Adv., Mrs. Tuli Sinha, Adv.
Heard on	:	September 9, 2025.
Judgment on	:	September 9, 2025.

Sabyasachi Bhattacharyya, J.:

1. CAN 1 of 2023 is an application by the heirs and legal representatives of the respondent no. 6 in the original application, namely Lakshmi Sutradhar, who died after the

passing of the judgment impugned in the present writ petition, seeking leave to present the present writ petition.

2. In view of the said heirs having stepped into the shoes of the respondent no. 6, such leave is granted.
3. Accordingly, CAN 1 of 2023 is disposed of by granting the heirs and legal representatives of the respondent no. 6 in the original application to proceed with the present writ petition.
4. Since the heirs and legal representatives of the deceased respondent no. 6 are the writ petitioners themselves, no further order need be passed for rectification of the cause title of the writ petition.
5. In view of appearance on behalf of the respondents through counsel, service of notice of appeal on the respondents is dispensed with.
6. The present challenge has been preferred against an order of the West Bengal Land Reforms and Tenancy Tribunal whereby the original application filed by the private respondent was allowed, thereby holding that the vesting of the land in dispute in favour of the mother of the present writ petitioners under Section 4 of the West Bengal Acquisition of Homestead

Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 was illegal.

7. Learned counsel for the petitioners submits that there is a checkered history to the matter.
8. Initially, the land in question was vested in favour of the petitioners' mother. Subsequently, however, such vesting was challenged by the original owners, being the private respondent, by way of an application before the Tribunal. The Tribunal having adjudicated the same, such adjudication was challenged in a writ petition. The writ court relegated the matter to the Collector.
9. Upon such relegation, the concerned Block Land and Land Reforms Officer adjudicated the issue. Thereafter, the matter went up to the Tribunal which held that on the relevant date, it was the District Land and Land Reforms Officer, and not the B.L. & L.R.O., who was the 'Collector' under the 1975 Act. Accordingly, the matter was remanded to the D.L. & L.R.O. for adjudication.
10. It is submitted that the D.L. & L.R.O. turned down the challenge of the private respondents, which was upset by the Tribunal.

11. Learned counsel for the writ petitioners submits that the mother of the present writ petitioners, being an artisan and an occupier of the disputed land on the appointed date as per the 1975 Act, that is, on June 26, 1975, the learned Tribunal acted without jurisdiction in setting aside such vesting. It is argued that the Tribunal proceeded primarily on the premise that a property belonging to the deceased husband of the writ petitioners' mother (that is, the writ petitioners' father), devolved upon their mother only on the demise of their father, which happened after June 26, 1975. It is argued that once a land was vested under Section 4 of the 1975 Act, the same could not be divested by taking into account subsequent acquisition of property by the occupier by way of inheritance from her husband.
12. Learned counsel further submits that one of the premises of challenge by the private respondents was that the mother of the writ petitioners, the occupier, also became entitled to a portion of an ancestral property on the demise of her father, along with her three brothers. However, learned counsel argues that the Records of Rights in respect of the said ancestral property indicate that the three brothers are in

exclusive occupation of the same. The name of the writ petitioners' mother was never recorded in respect of the said property, thereby indicating that either there was a transfer in favour of the brothers of the writ petitioners' mother or that the writ petitioners' mother never held such property at all. Thus, it is argued that the learned Tribunal misdirected itself in holding that the vesting in favour of the writ petitioners' mother was illegal.

13. Learned Senior counsel appearing for the State points out that in terms of the preamble of the 1975 Act, read with Section 2(f) thereof, it has to be construed that if a person, even if an artisan, is entitled to a different property on the appointed date, he or she would not be entitled to vesting under Section 4 of the 1975 Act in view of the specific bar stipulated therein.
14. Learned counsel appearing for the private respondents, in unison with the State, argues that the disputed property belonged to the private respondents. In view of the devolution of title in favour of the mother of the writ petitioners of a part of the ancestral property of the said mother, the latter could not be labelled as an "occupier" within the contemplation of the 1975 Act.

15. Upon a careful consideration of the arguments of parties, we find that the District Land and Land Reforms Officer, acting as Collector, did not advert to the acquisition of other property by the writ petitioners' mother at all and proceeded merely on the premise that the said mother was an artisan on the relevant date and accordingly, the land was vested correctly under Section 4 of the 1975 Act. Thus, the learned Tribunal was justified in re-adjudicating the issue on all relevant aspects of the matter.
16. There were two premises of the judgment of the learned Tribunal. Insofar as the devolution of a further property in favour of the writ petitioners' mother by dint of the demise of her husband is concerned, we agree with the contention of the writ petitioners that since such devolution occurred subsequent to June 26, 1975, the appointed date under the 1975 Act, the same could not have a germane bearing on the issue at hand. This is because once a land is vested under Section 4, on the position as it stood on June 26, 1975, indefeasible right, title and interest accrues in favour of the vestee and the said title cannot be divested on some subsequent *post facto* acquisition of property by the vestee.

17. However, we are unable to accept the contention of the writ petitioners on the other facet of the adjudication of the learned Tribunal, to the extent that admittedly the writ petitioners' mother was the daughter of the person who owned another land and that the father of the writ petitioners' mother had died prior to June 26, 1975. Thus, by operation of the law of succession, the petitioners' mother became a co-sharer in such ancestral property along with her three brothers.
18. The question which arises is whether, in view of the said mother's name not being recorded in the Records of Rights in respect of the ancestral property on the demise of her father before June 26, 1975, it can be construed that the said other property was "held" by the writ petitioners' mother within the contemplation of Section 2(f) of the 1975 Act.
19. To construe the real significance of the expression "holds" used in Section 2(f), we would impart an extremely restricted view to the statute, keeping in view its object to facilitate the vesting of land in favour of artisans, fishermen and agricultural labourers who come from the marginalized sections of society. The very fact that such a person owns another property, even if he or she is not in actual physical possession thereof,

denudes the cloak of protection given to such person on the very premise of the helplessness since such person comes from the marginalized sections of society. A person having title even in a portion of a different property, if clothed with the right at par with artisans, fishermen and agricultural labourers who are entirely landless, would defeat the very purpose of the statute.

20. We also have to keep in mind that the 1975 Act is an artificial intrusion on the right to property of the person who is the actual owner of the vested property as on the date of the vesting, by statutory fiat. Although Article 300A of the Constitution has taken the right to property out of the fold of fundamental rights, fact remains that the true owner of a property has a vested right in a property unless such right is taken away by statute. In such view of the matter, the statute in question has to be read strictly so as to ensure that a balance is struck between the title of the original owner and the beneficiaries of the beneficial legislation, so as to ensure further that persons who are not strictly entitled to the benefit of the statute do not take undue advantage of the same.

21. In the present case, the writ petitioners and/or their mother have failed to plead or prove that the ancestral property of the mother was ever transferred exclusively to the brothers of the said mother.
22. That apart, since it is an admitted position that the father of the writ petitioners' mother met his demise prior to the appointed date i.e. June 26, 1975, the devolution of a title in a portion of the property i.e. 1/4th share in respect of the ancestral property, took place in favour of the petitioners' mother automatically, by operation of law.
23. Thus, even if the writ petitioners' mother was not in actual physical possession of the ancestral property in question, it is a settled legal fiction that the possession of any of the co-owners is deemed to be the possession on behalf of all the other co-owners, including the mother of the writ petitioners in the present case.
24. That apart, we are also to look at the fact that upon a vesting occurring under Section 4 of the 1975 Act, the person on whom the property is vested absolutely is conferred ownership rights for all practical purposes, defeating the rights of the original owner without any fault of the original owner. In such

circumstances, we have to construe the expression “holds” as used in Section 12(f) on a parallel footing as the right which the statute intends to vest on the occupier. Therefore, if a person already owns a portion of the property prior to such vesting under Section 4, a double benefit cannot be given to such person by vesting the subject land in her favour by taking advantage of Section 4 of the 1975 Act, thereby making her the owner of both the properties simultaneously.

25. Keeping in view such aspects of the matter, we are of the opinion that learned Tribunal was perfectly justified in holding that the vesting in favour of the writ petitioners’ mother was illegal, since despite her being an artisan on the appointed date i.e. June 26, 1975, she did not come within the definition of the term “occupier” under Section 2(f) of the 1975 Act, as she held other land in the capacity of a co-owner in respect of her ancestral property.
26. Accordingly, W.P.L.R.T. No. 111 of 2023 is dismissed on contest. CAN 1 of 2023 is also disposed of accordingly.
27. There will be no order as to costs.

28. 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.)