

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 Supratim Bhattacharya

W.P.L.R.T. 170 of 2025

**The State of West Bengal and others
Vs.
Amitava Chattyopadhyay and others**

For the petitioners	:	Mr. Pantu Deb Roy, Id. AGP Mr. Mrinal Kanti Ghosh
For the State	:	Mr. Gazi Faruque Hossain Mr. Himadri Kumar Mahata
Heard on	:	04.11.2025
Judgment on	:	04.11.2025

Sabyasachi Bhattacharyya, J.:-

1. Affidavit-of-service filed in court today be kept on record.
2. At the outset, learned counsel for the State/writ petitioners takes a preliminary objection to the impugned order to the effect that an appeal was available against the order impugned before the Tribunal under Section 54 of the West Bengal Land Reforms Act, 1955.

3. It transpires upon hearing both sides that the learned Tribunal proceeded on the premise that no litigant can approach the Tribunal under Section 10(3)(a) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 but an exception is carved out in sub-Section (b) of the said provision where the Tribunal may entertain the application without resorting to the remedial measures, provided it would cause undue hardship, but it must be of a higher magnitude than a mere hardship and there must be strong reasons.
4. However, while dealing with the issue, the learned Tribunal proceeded on the premise that the mere prior filing of a writ petition by the respondents in this court was such a hardship.
5. Learned counsel for the respondents before us submits that initially no copy of the impugned order passed by the BL&LRO was available with the respondents and the respondents had to move a writ petition before the Vacation Bench of this court, upon which the respondents were relegated to file an original application before the Tribunal.
6. However, we find that the mere fact that a prior writ petition was filed and the respondents were thereafter relegated to the Tribunal does not create a jurisdiction for the Tribunal where it is not otherwise available, in the sense that it is the norm of

judicial practice that all available remedies are to be exhausted under normal circumstances before the Tribunal interferes into the matter.

- 7.** In the absence of any specific and categorical pleading or proof of any such hardship of higher magnitude on the part of the respondents in preferring a regular appeal, we are of the opinion that the learned Tribunal acted without jurisdiction in entertaining the original application and deciding the same on merits, thereby jumping a forum and depriving both parties of a rung of challenge.
- 8.** Accordingly, WPLRT 170 of 2025 is allowed on contest on the issue of maintainability of the original application before the Tribunal, thereby setting aside the judgment dated May 16, 2025 passed by the Third Bench, West Bengal Land Reforms and Tenancy Tribunal in O.A. No. 05 of 2025 (LRTT).
- 9.** However, it is made clear that this court has not entered into the merits of the respective contentions of the parties on the dispute between them.
- 10.** Liberty is given to the respondents herein to prefer a proper appeal before the appropriate forum against the order against which the original application was filed before the Tribunal.

- 11.** If such appeal is filed within a fortnight from date, the Appellate Forum shall decide the appeal upon giving adequate opportunity of hearing to all interested parties, independently in accordance with law, without being influenced in any manner by any of the observations made in this court or before the Tribunal.
- 12.** It is expected that such appeal shall be disposed of as expeditiously as possible, preferably within six months from the date of filing of the same before the Appellate Authority.
- 13.** Liberty is granted to the respondents herein to make appropriate prayers for interim order before the Appellate Forum in accordance with law.
- 14.** There will be no order as to costs.
- 15.** 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.

(Supratim Bhattacharya, J.)

AD-07

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