

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

WPLRT 181 of 2025
IA No: CAN 1 of 2025

Begonia Real Estates LLP
Vs.
The State of West Bengal and others

For the petitioner	:	Mr. Anirban Roy, Mr. Debjit Basu
For the State	:	Mr. Amal Kumar Sen, Ld. AAG, Mr. Lal Mohan Basu
For the respondent no.4	:	Mr. Pinaki Ranjan Mitra, Mr. Ashim Kumar Roy
For the respondent nos. 5 & 6	:	Ms. Priyanka Jana, Mr. Bikramjit Mandal, Mr. Parimal Sardar
Heard on	:	11.11.2025
Judgment on	:	11.11.2025

Sabyasachi Bhattacharyya, J.:-

1. Affidavit-of-service filed today be kept on record.
2. The conspectus of the present writ petition is short.
3. The petitioner claims to have purchased one-seventh share from one Dipak Bhattacharya in respect of plots-in-question in the year 2016. It is alleged by the petitioner that one Khetrnath Bhattacharjee was

the original owner of the property. He left behind his wife, two daughters and four sons.

4. Subsequently, it is alleged by the petitioner, the wife and one of the daughters (Gita) of the said Khetranath transferred their shares in favour of the four sons.
5. The four sons, petitioner alleges, by usurping the share of the remaining daughter Latika, sold out the property in favour of respondent nos. 5 and 6.
6. It is further contended that the petitioner purchased the property from Dipak Bhattacharya, one of the sons of Latika. The petitioner claims to have applied for recording its name on the strength of the one-seventh share purchased by the petitioner and the said recording was duly done in the records of rights.
7. However, in the interregnum, an application filed by Dipak Bhattacharya, the vendor of the petitioner, during his lifetime for mutation/recording his name was refused, against which an appeal was preferred by Dipak Bhattacharya. The appellate authority allowed the appeal, directing the recording of the name of Dipak Bhattacharya. However, when a challenge was preferred against the said appellate order before the Land Reforms and Tenancy Tribunal, it was detected that Dipak Bhattacharya had died on November 18, 2022, that is, during pendency of the appeal.
8. Accordingly, the Tribunal held that the appellate authority's decision was a nullity and, on the basis of the substitution application filed by

the heir of Dipak, remanded the matter to the appellate authority by the order impugned herein.

9. Learned counsel appearing for the respondent nos. 5 and 6 submits that the matter was previously remanded by the Tribunal as well and, in the interregnum, the said Dipak Bhattacharya had died.
10. Upon hearing learned counsel for the parties, it transpires that it is an admitted position that Dipak Bhattacharya, the appellant before the appellate authority, had died on November 18, 2022, that is, before passing of the order by the appellate authority which was challenged before the Tribunal. Thus, the learned Tribunal, while passing the impugned order, was justified in setting aside the order, which was a nullity, being passed in the name of a dead person, and remanding the matter to the appellate authority by allowing the substitution applications filed by heir of Dipak Bhattacharya, namely, one Dibakar Bhattacharya, on the premise that the appellate authority's order was a nullity in view of the demise of Dipak Bhattacharya prior to the same.
11. Insofar as the right claimed by the petitioner is concerned, we find that there is substance in the contention of the petitioner that the petitioner's right, if any, would be adversely affected in the event the outcome of the appeal turns negative.
12. In any event, since the petitioner has an interest in the present *lis*, we allow CAN 1 of 2025 without any order as to costs, thereby permitting the present writ petition to be filed at the behest of the petitioner.

13. In tune with the above observations, the present petitioner ought to be given an opportunity to approach the appellate authority to implead himself as a party thereto on the strength of the purported deed executed in his favour by Dipak Bhattacharya (since deceased), the son of late Latika.
14. Accordingly, WPLRT 181 of 2025 is disposed of without interfering with the impugned order, granting liberty to the present petitioner to make an appropriate application before the appellate authority for being impleaded in Appeal Case No. 500 of 2017. If such an application is made, the appellate authority shall dispose of the same in accordance with law after giving adequate opportunity to all parties to be heard on the said application, without being influenced on merits by any of the observations made above, and thereafter shall proceed to decide the appeal afresh in terms of the remand order of the Tribunal.
15. There will be no order as to costs.
16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)