

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 187 of 2025

Akshoy Mondal
Vs.
State of West Bengal and others

For the petitioner : Mr. Sudhama Nath,
Mr. Soumitra Banerjee,
Md. Giasuddin Mulla,
Mr. Rabindranath Chakraborty

For the State : Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.,
Mr. Priyabrata Batabyal

For the
respondent no.8 : Mr. Anindya Lahiri, Sr. Adv.,
Mr. Anish Chakraborty,
Mr. Subhomoy Paul

Heard on : 01.12.2025

Judgment on : 01.12.2025

Sabyasachi Bhattacharyya, J.:-

1. The present challenge is against an order passed by the West Bengal Land Reforms and Tenancy Tribunal on December 05, 2024 on an

application filed by the private respondent seeking to implement an order dated December 02, 2014. By virtue of the said order dated December 02, 2014 passed in MA 499 of 2013 (OA 3209 of 2011) (LRTT), it was *inter alia* observed that the present writ petitioner came into picture to purchase the subject property from the *patta* holder and it goes without saying that the *patta* holder, after issue of *patta*, was in possession.

2. Certain other observations were made against the present writ petitioner and ultimately it was held that the B.L. & L.R.O, Gosaba, District: South 24 Parganas as well as the S.D.O, Canning were directed to take necessary action in accordance with the statutory provisions. It was observed that it was not clear whether *patta* had been annulled or not by the S.D.O on receipt of case record from the B.L. & L.R.O; however, it was observed that the *patta* holder should be protected.
3. Learned counsel appearing for the petitioner submits that the petitioner has been illegally ousted from the suit property in the teeth of an order of status quo passed by a competent civil court in Title Suit No. 192 (1754) of 2015 pending before the learned Civil Judge (Junior Division), Fourth Court at Alipore, where the present private respondent is a party.
4. Learned senior counsel appearing for the private respondent submits that the *patta-in-question* has not been annulled at any point of time and, as such, the private respondent, as a *patta* holder, is in possession of the subject property. Learned senior counsel also

places reliance on Section 61 of the West Bengal Land Reforms Act, 1955 (for short “the 1955 Act”) and argues that the civil court does not have the jurisdiction to decide issues which are required to be decided under the Act by the concerned authority under the said Act.

5. However, on a perusal of the order dated December 05, 2024, it is found that it is only in the year 2019 that OA 2850 of 2019 (LRTT), in connection with which the order has been passed, was filed by the private respondent.
6. By the order dated December 05, 2024, the Tribunal has directed implementation of an order passed about a decade back.
7. We also find from the impugned order that the respondent before the Tribunal, that is, the present petitioner, clearly submitted before the Tribunal that a civil suit was pending and brought to the notice of the Tribunal the status quo order passed in respect of the property before the Tribunal.
8. However, despite taking note of the same, the learned Tribunal observed that by the order of the Tribunal passed in OA 3209 of 2011 dated December 02, 2014, the B.L. & L.R.O, Gosaba as well as the S.D.O, Canning were directed to take necessary action in accordance with statutory provision. The Tribunal, as such, took a view that the said order and the report of the S.D.O dated November 17, 2021 make it crystal clear that the present private respondent is still the recorded *pattadar* and possesses the suit land and that it did not want to interfere with the order passed by the civil court.

9. However, considering everything, “necessary protection” has been granted to the private respondent. Ultimately, the S.D.O, Canning has been directed to comply with the order of the First Bench of the Tribunal dated December 02, 2014 “in true letter and spirit” and also to give protection to the applicant/private respondent according to law.
10. However, the writ petitioner rightly points out that the report of the S.D.O., which was relied on in the impugned order to direct grant of protection to the possession of the private respondent, itself indicates in clear terms that the private respondent herein has not been in possession over the subject property since the last 31 years and the recording in his favour is not maintainable.
11. Upon query of Court, learned senior counsel for the private respondent submits that pursuant to the order impugned herein, the private respondent has been put in possession of the said property upon initiation of subsequent proceedings, thereby implying that the private respondent was not in possession when the impugned order was passed, contrary to the finding of the Tribunal.
12. Be that as it may, the effect of the impugned order dated December 05, 2024 is that the private respondent herein, who was not in possession of the property even as per the report of the S.D.O. submitted before the Tribunal, has been virtually directed to be put in possession of the subject property in an oblique manner, thereby violating the order of status quo passed by a competent civil court,

under the garb of protecting his possession which was not there at the juncture of the impugned order.

13. Contrary to the arguments of the private respondent, even if Section 61 of the 1955 Act contemplates that the civil court might not have jurisdiction to take up certain issues, the said objection is open for the private respondent to be taken before the civil court itself, by which the order of status quo was passed, and/or in a properly constituted appeal against the same. As per Order No. 32 dated July 10, 2019 passed by the learned Civil Judge (Junior Division), Fourth Court at Alipore, District: South 24 Parganas in Title Suit No. 192 (1754) of 2015, the parties, including the private respondent, were directed to maintain status quo till disposal of the said suit. It is nobody's case that the status quo order has since been vacated. Even the private respondent fails to show before the Court as to any steps having been taken to challenge such order.
14. Thus, it is not for the litigant or the Tribunal, of its own accord, to proceed on the premise that an order of status quo passed by a competent civil court is bad in law or is a nullity. At best, a question of jurisdictional error could be taken in a challenge against the said order of status quo or in a vacating application before the self-same court. However, the order of a civil court is binding on the litigants and cannot be flouted at the drop of a hat just because the litigant feels that the civil court did not have jurisdiction to pass the order. Such objection has to be specifically raised in a challenge to such order passed by the competent civil court.

15. Moreover, the impugned order is perverse to the core as it overlooks the S.D.O.'s report on which it itself relies, which goes on to state that the private respondent, the petitioner before the Tribunal, has not been in possession over the subject property for the last 31 years. Hence, the impugned order is palpably illegal and *de hors* the law and the same was passed without jurisdiction by the Tribunal, thereby granting protection to the private respondent's illusory possession which was never there even by virtue of the papers before the Tribunal.
16. Accordingly, WPLRT 187 of 2025 is partially allowed on contest, thereby setting aside the impugned order dated December 05, 2024 passed by the Third Bench, West Bengal Land Reforms and Tenancy Tribunal in OA 2850 of 2019 (LRTT).
17. The matter is remanded to the Tribunal to re-adjudicate the issues before the Tribunal in the light of the observations made above, upon taking into consideration in proper perspective the S.D.O.'s report filed before it and taking into consideration the valid and subsisting status quo order of the civil court as mentioned above, passed in Title Suit No. 192 (1754) of 2015, before coming to a conclusion in that regard.
18. It is made clear that nothing in the above observations shall prevent the private respondent from challenging the order of the civil court, subject to limitation and subject to the entitlement of the private respondent in law to do so otherwise.

19. Since no affidavits have been invited, it is deemed that none of the allegations made in the writ petition are admitted by the respondents.
20. It is further clarified that none of the above observations shall affect on merits any other pending proceeding before the Tribunal or before any other forum.
21. There will be no order as to costs.
22. 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.)