

AD -42
Ct No.16
15.12.2025
(SSS)

WPLRT 198 of 2025
With
CAN 1 of 2025

Musa Karim alias Musa
Karim Mallick and Ors.
Vs.
The State of West Bengal and Ors.

Mr. Tapas Kumar Sinha,
Mr. Syed Neaz Ahmed,
Mr. Syed Shafi Ahmed
....For the petitioners.

Mr. Chandi Charan De, Ld. Addl. Govt. Pleader,
Ms. Chandana Ghosh
.....For the State.

1. The present challenge has been preferred against an order whereby the learned Tribunal has remanded the matter to the appellate authority i.e. the District Land and Land Reforms Officer, Nadia. The premise of the remand was that despite a previous direction to pass a reasoned order, the appellate authority passed an order which was cryptic, evasive, devoid of proper reasons and logic, which according to the Tribunal was a glaring example of non-application of mind.
2. The learned Tribunal, in the impugned order, in fact quoted the order of the appellate authority.

The appellate authority merely stated that the appellant was present and filed hazira but the respondent was absent. It further observed that it had seen the case records, especially the memo of appeal and order passed by the impugned order of the B.L. & L.R.O, Nakashipara in the concerned miscellaneous case, deeds and necessary documents and also the present status of lands involved in the case.

3. We also find, on a perusal of the order of the appellate authority, that *ex facie*, such order of the appellate authority was cryptic and not worth the name of an order at all. It is well-settled that reason is the soul of an order. In adjudications of a quasi civil nature, as done by the appellate authority under Section 54 of the West Bengal Land Reforms Act, 1955, which decides the valuable rights of parties, such a pathetic, unreasoned order is not desired. Hence, the learned Tribunal was justified in remanding the matter to the appellate authority, which never exercised its jurisdiction at all.

4. Learned counsel for the petitioners before us also cites *Ashwinkumar K. Patel vs. Upendra J. Patel and Ors.*, reported at *AIR 1999 SC 1125*, where it was held by the Hon'ble Supreme Court that the High Court should not remand a case under Order XLI Rule 23 of the Code of Civil

Procedure to the “lower court” (*sic*) merely because it considered that the reasoning of the “lower court” (*sic*) in some respects was wrong, since such remand orders lead to unnecessary delays and cause prejudice to the parties to the case.

5. However, in the said report, in the paragraph preceding the one where the ratio was laid down, the Hon’ble Supreme Court considered that the High Court, while dealing with the appeal preferred before it, had observed that the Trial Court had mainly relied upon a compromise decree between the owners and the defendants nos. 20 to 25 in an earlier suit filed by the defendant nos. 20 to 25 against the owners on the basis of an agreement. According to the High Court, while it was true that the said defendant nos. 20 to 25 accepted the possession of the owners, defendant nos. 1 to 14, the said admission related to the date of compromise dated April 26, 1990 and not to August 14, 1992 when the compromise was recorded and hence, the Trial Court was wrong in thinking that the defendant nos. 15 to 19 could not have come into possession on July 16, 1991 from the owners. It was further observed by the Hon’ble Supreme Court that according to the High Court, the Trial Court was wrong in thinking that there was an admission by defendant nos. 20 to 25 of the possession of the

owners as on August 14, 1992, the date when the compromise was recorded, and also in thinking that the defendant nos. 15 to 19 could not have come into possession on July 16, 1991. The admission if any, related to April 26, 1990, the date of the compromise and there was, according to the High Court, no inconsistency with the case of defendant nos. 15 to 19 of possession being given to them under the agreement in question. The High Court had also observed that this also made the factual foundation of the Trial Court's order erroneous, on which reasons the High Court set aside the order of the Trial court and remitted the matter for a fresh decision.

6. It is a settled position of law that a judgment can only be a binding precedent for the ratio laid down therein and not what can be logically derived from such ratio. In the cited judgment, the Hon'ble Supreme Court deprecated the remand order in the facts and the circumstances of the case, which we have narrated immediately above.

7. In the said case, despite all the relevant materials having been considered at length by the Trial Court and the Trial Court having come to specific legal and factual conclusions, the High Court was of the opinion that such conclusions were erroneous but, instead of deciding the appeal itself, had remanded the matter to the Trial Court.

8. However, as opposed to the said case, in the present case, the appellate authority has not even paid lip-service to the provisions of Section 54 of the West Bengal Land Reforms Act, 1955. The appellate authority did not advert at all to the materials on record and did not spend a single sentence by way of reasoning for its conclusion. Thus, this is not a case where adjudication was made on merits by the appellate authority and the Tribunal, instead of deciding the matter on merits, shirked its duty and remanded the matter back to the appellate authority.

9. In the facts of the present case, if the Tribunal were to adjudicate the matter, it would be usurping the power of the appellate authority, thereby depriving both parties of a forum of challenge, since there was no exercise by the appellate authority worth the name at all under Section 54 of the 1955 Act.

10. In such view of the matter, the ratio laid down in *Ashwinkumar (supra)* is not attracted to the present case, where there was no consideration of merits of the matter at all by the appellate authority.

11. Thus, we are of the opinion that the learned Tribunal was justified in remitting the matter back to the appellate authority.

12. Accordingly, WPLRT 198 of 2025 is dismissed on contest without any order as to costs, thereby affirming the judgment dated September 2, 2025 passed by the Fourth Bench, West Bengal Land Reforms and Tenancy Tribunal in OA No. 1137 of 2023 (LRTT).

13. It is expected that the appellate authority shall, in terms of the direction of the Tribunal, dispose of the appeal as expeditiously as possible, in accordance with law, upon giving opportunity of hearing to all interested parties, latest within three months from the date of communication of this order to the said authority.

14. CAN 1 of 2025 stands disposed of consequentially.

15. There will be no order as to costs.

16. The parties shall act on the server copy of this order, duly downloaded from the official website of this court.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)