

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Prasenjit Biswas

M.A.T. 2095 of 2024

Shri Dinesh Kumar Goyal
vs.
The State of West Bengal & Ors.

For the Appellant : Ms. Sutapa Roy Choudhury, Senior Advocate
Ms. Aratrika Roy, Advocate

For the State : Mr. Ayan Banerjee, Advocate
Mr. Kapil Guha, Advocate

Hearing & Judgment on : July 29, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petitioner and directed against the judgment and order dated October 3, 2024 passed by the learned Single Judge in W.P.A. 27406 of 2008.
2. By the impugned judgment and order, learned Single Judge found the appellant to come with uncleaned hands before the Writ Court. Learned Single Judge also found that, writ petition to be devoid of any merit.
3. Learned Senior Advocate appearing for the appellant submits that, the appellant applied for mutation in respect of a plot lying and situated at Section I of the Salt Lake City, Kolkata. She draws the attention of the

Court to a Cabinet decision dated November 5, 1979. She submits that, such Cabinet decision relates to Sector II and Sector III of the Salt Lake Township. Since the appellant is not seeking mutation in respect of plot within the Salt Lake Sector II or Sector III such Cabinet decision is not applicable.

4. Relying upon **2010 (5) Mharashtra Law Journal 465 (Baliram s/o Ramaji Ghate vs. State of Maharashtra and ors.)** learned Senior Advocate appearing for the appellant submits that, an affidavit cannot be extracted from her client.
5. Respondent authorities are represented.
6. Writ remedies are discretionary in nature. As an Appeal Court we are concerned with the issue as to whether, discretion exercised by the learned Single Judge can be said to be perverse or not. In the event, the view taken by the learned Single Judge is a plausible one, we need not substitute such view.
7. In the facts and circumstances of the present case, the appellant sought mutation in respect of plot of land situate at Sector I. Learned Single Judge required an affidavit from the appellant. Appellant refused not to file the same. Appellant refused to file any such affidavit before us also despite us requesting the appellant to file an affidavit before the learned Single Judge on remand.
8. Learned Single Judge also noted various facets of the request of the appellant and found that, such request should not be kept in the facts and circumstances of the present case.
9. **Baliram s/o Ramaji Ghate (supra)** was rendered in the context of the Land Acquisition Act, 1894. It is of the view that, once, Government

invokes the Act of 1894, it is bound by the rights and obligations imposed by the Act of 1894 and cannot deny to the expropriated landholder right of seeking enhancement of compensation by way of a reference under Section 18 of the Act of 1894. The ratio laid down in **Baliram s/o Ramaji Ghate (supra)** is not attracted to the facts and circumstances of the present case. The present case is not one which is governed by the Act of 1894.

10. Apparently learned Single Judge drew adverse inference on the appellant refusing to file an affidavit. Drawal of such inference in the facts and circumstances of the present case cannot be said to be perverse. At least it is one of the plausible views on the basis of which discretionary relief was denied.
11. At the appeal stage also, the appellant persists in not addressing the issue as raised before the learned Single Judge.
12. Since, the learned Single Judge gave reasons for not exercising discretionary relief in favour of the appellant, we are not minded to interfere in the present appeal.
13. **MAT 2095 of 2024** alongwith connected applications, if there be any, are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

14. I agree.

(Prasenjit Biswas, J.)