

Item No.1
10.09.2025
Court. No. 1
SP

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

WPLRT/2/2025

VINOD KUMAR JAISWAL
VS
THE STATE OF WEST BENGAL AND ORS

Mr. Bikraaditya Ghosh, Adv.
Mr. Sumanta Ghosh, Adv.
Mrs. Supriya Singh, Adv.
Mr. Ved Rai, Adv.
Mr. Mayank Bhandari, Adv.
Mr. Vivek Saha, Adv.
... for the Appellant.

Mr. Subham Ghosh, Adv.
Mr. Mayank Ray, Adv.
. . .for the Private respondents

Mr. Hirak Barman, Adv.
Mr. Sumit Kumar, Adv.
. . .for the State.

1. Affidavit of service filed in Court today, is taken on record.
2. This application arises out of an order dated August 7, 2024 passed in the learned West Bengal Land Reforms and Tenancy Tribunal in OA No. 3630 of 2023. The order was passed pursuant to a direction of the High Court dated May 16, 2025 in WPLRT 1 of 2024.
3. An order of status quo passed by the learned Tribunal was under challenge in the said writ petition before the High

Court. The respondent no.4 had filed the same, assailing the order.

4. According to the said respondent, the order of status quo was wrongly passed by the Tribunal upon, prima facie, holding that the petitioner had a right over the land in question, although the respondent no.4 claimed right, title and interest thereof by virtue of a prior deed. Two civil suits were pending between the parties and instead of coming to a finding who was in possession of the property in question, the order of status quo was passed.
5. It was contended that without ascertaining the status of the property, an order of status quo in respect of nature, character and possession of the property was passed. The Division Bench set aside the order on the ground that the learned Tribunal did not ascertain the prima facie case, balance of convenience and inconvenience and irreparable loss and injury while passing the order of injunction. The matter was remanded for further hearing by the Tribunal on such issue.
6. On hearing the parties the learned Tribunal passed the order impugned before us.

7. Mr. Bikramaditya Ghosh, learned advocate for the petitioner, submits that the learned Tribunal acted beyond jurisdiction in passing the order of injunction, by restraining the petitioner from interfering with the possession of the respondent no.4. Learned Tribunal proceeded to decide the issue of title on the basis of Section 48 of the Transfer of Property Act. It was recorded in the order that the respondent no.4 purchased the property by virtue of two registered deeds of sale in the year 1994 and such since purchase, was in possession of the suit property.
8. On the contrary, the petitioner had purchased the property from the legal heirs of one Shyamal Kumar Kundu by two separate deeds of conveyance dated July 2, 2021. As the respondent no.4, according to the learned Tribunal, had become the owner of the suit property prior to the petitioner, the doctrine of priority embodied under Section 48 of the Transfer of Property Act 1882 was in play, and it was held that the preponderance of evidence was in favour of the respondent no.4. Further, it was found that the respondent no.4 had a trade licence, tax

receipt issued by the Local Gram Panchayat, electricity bills etc.

9. Mr. Subham Ghosh, learned advocate for the respondent nos. 4 and 5, submits that the law is well settled that, the prior deed would prevail over the subsequent deed and as such the learned Tribunal did not err in passing the order impugned.
10. Mr. Kumar learned advocate for the State submits that the issue of title should be actually decided in the suit.
11. We have heard the submissions of the learned advocates for the respective parties. The issue before the learned Tribunal was, whether the order of the District Land and Land Reforms Officer in an appeal, setting aside the order passed by the Block Land and Land Reforms Officer by which the petitioner's name was mutated in the land records was correct or not. Civil suits are already pending between the parties. If any of the parties alleged threat to their possession, disturbance etc. their relief would be before the Civil Court. The aggrieved party should have approached the Civil Court. Interim protection of the property which was the subject matter of the suit and/or interim

prayer for enjoyment of the said property, could be prayed for in the suit. It was beyond the jurisdiction of the learned Tribunal to decide the issue of title based on the deeds and the evidence before it, and pass an order of injunction. The order impugned is set aside. The Tribunal shall restrict its adjudication of the OA to the correctness and validity of the action/order impugned before it, with regard to the mutation of the records/correction of the records in favour of the petitioner and subsequent deletion thereof.

12. Other reliefs with regard to protection of possession etc. shall be prayed in the pending suits by the parties, which shall be decided in accordance with law. The prayer for injunction before the Tribunal was misconceived and is accordingly disposed of.

13. WPLRT 2 of 2025 is, accordingly, disposed of.

14. Parties are directed to act on the server copy of this order.

(Shampa Sarkar, J.)

(Prasenjit Biswas, J.)