

Form No. J (2)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak

C.O. 195 of 2025

Md Makbul Hossain @ Makbul Hossain Miya
Vs.
Rafiqul Islam

For the Petitioner : Mr. Hillol Saha Podder, Advocate

For the Opposite party : Mr. Jaydeep Kanta Bhowmik, Advocate
Mr. Sayantan Bhowmik, Advocate
Mr. Shubham Kumar, Advocate
Ms. Sayantani Das, Advocate

Heard and Judgment on: 26.11.2025

DEBANGSU BASAK, J.:-

1. Revisional application is directed against order dated June 24, 2025 passed in Misc. Appeal No.2 of 2024 by the learned Additional District Judge, Dinhata.

2. By the impugned order, learned Appeal Court, concurred with the view of the learned Trial Court with regard to preemption proceedings.
3. Learned advocate appearing for the petitioner submits that, in the preemption proceedings, evidence was led. He draws the attention of the Court to the cross-examination of plaintiff witness no.1, where, such witness stated that, ancestral property was not partitioned by metes and bounds amongst the family members.
4. Learned advocate appearing for the petitioner submits that, vendor of the petitioner was not made a party to the proceedings for preemption. He also draws the attention of the Court to the deposition of the witness of the petitioner being opposite party witness no.2 where, it was stated that, the opposite party herein took money from the petitioner and that, the opposite party herein

granted permission for construction whereupon, petitioner made the construction at the plot concerned.

5. Opposite party is represented.
6. The opposite party filed proceeding for preemption under Section 8 of the West Bengal Land Reforms Act, 1955. Such proceeding was registered as Misc (Pre) 12 of 2011 by the learned Civil Judge (Jr. Division), Dinhata.
7. In such proceedings, evidence of the parties were recorded. By the order dated December 8, 2023, learned Civil Judge (Junior Division), Dinhata allowed the Misc (Pre) No.12 of 2011.
8. Being aggrieved by such order dated December 8, 2023, the opposite party preferred an appeal therefrom which was registered as Misc. Appeal No.2 of 2024 in the Court of the learned Additional District Judge, Dinhata. By the impugned order, dated June, 24, 2025, learned

Additional District Judge, Dinhata was pleased to dismiss the Misc. Appeal No.2 of 2024.

9. As noted above, proceedings are for preemption under Section 8 of the Act of 1955.
10. What is required to be established is that, the applicant under Section 8 of the Act of 1955 is that, the petitioner did not hold land above the ceiling limit and that, the plot in question was adjoining the plot in respect of which the petitioner was a raiyat.
11. In the facts and circumstances of the present case, both the criteria under Section 8 of the Act of 1955 stood satisfied. Opposite party herein, is the owner of the adjoining plot and that, subject plot was adjoining and the plot in respect of which the opposite party herein was a raiyat.
12. In cross-examination in the proceedings before the learned Trial Judge, plaintiff witness no.1 stated that, ancestral property was not partitioned by metes and

bounds amongst the family members. With the deepest respect such statement does not denude the opposite party herein of rights granted under Section 8 of the Act of 1955.

13. Absence of the vendor of the petitioner does not vitiate the proceedings. Petitioner is claiming title through the vendor. Therefore, vendor was not a necessary party to the proceedings vitiating the proceedings under the Act of 1955.

14. So far as the claim of the petitioner herein that, the opposite party herein took money and granted permission for construction is concerned, the same was not substantiated by cogent evidence both before the learned Trial Judge as also in appeal.

15. In such circumstances, I find no material irregularity in the order impugned warranting interference under Article 227 of the Constitution of India.

16. **C.O.195 of 2025** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)