

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 25183 of 2025

Gour Chandra Ghosh & Ors.

Vs.

The State of West Bengal & Ors.

With

WPA 25184 of 2025

Gour Chandra Ghosh & Ors.

Vs.

The State of West Bengal & Ors.

With

WPA 25185 of 2025

Gour Chandra Ghosh & Ors.

Vs.

The State of West Bengal & Ors.

With

WPA 25187 of 2025

Gour Chandra Ghosh & Ors.

Vs.

he State of West Bengal & Ors.

For the petitioners

: Mr. Partha Pratim Roy
Mr. Samrat Chakraborty
Mr. Saikat Gayen

..... advocates

For the State

In WPA 25183 of 2025

: Mr. Jaharlal Dey
Ms. Sukla Das Chandra

..... advocates

For the State In WPA 25184 of 2025	: Mr. Suman Ghosh Mr. Arka Mondal	 advocates
For the State In WPA 25185 of 2025	: Mr. Chandi Charan De, AGP Ms. Saswati Chatterjee	 advocates
For the State in WPA 25187 of 2025	: Mr. Supriyo Chattopadhyay Mr. Suman Dey	 advocates
For the respondent no. 7	: Mr. Rajdeep Bhattacharya	 advocate
For the Private Respondent nos. 7 to 10	: Mr. Sanjib Kumar Mukhopadhyay Md. Nasim Ali Ms. Nargish Parveen	 advocates
Reserved on	: 20.01.2026	
Judgment on	: 20.03.2026	

Hiranmay Bhattacharyya, J.:-

1. The petitioners have prayed for setting aside the orders of the District Land and Land Reforms Officer, Murshidabad dated 02.05.2024 and 28.02.2025. By the order dated 02.05.2024 the application under Section 5 of the Limitation Act for condonation of delay in preferring an appeal under Section 54 of the West Bengal Land Reforms Act 1955 (for short “the 1955 Act”) challenging an order dated 17.01.2020 passed by the Prescribed Authority under Section 50 of the 1955 Act was allowed thereby condoning the delay in preferring the said appeal. By the order dated 28.02.2025, the appeal under Section 54 of the 1955 Act was allowed thereby setting aside the orders of the Prescribed Authority in the mutation cases under Section 50 of the 1955 Act with a direction upon the Block Land and Land Reforms Officer, Murshidabad- Jiyaganj to rehear the mutation cases afresh.

2. Petitioners claim to have acquired title in respect of the plots in question by dint of purchase from the erstwhile recorded owners. Petitioners claim to have mutated their names in respect of the said plots. Petitioners also claim to be in possession of the said plots. Upon enquiry from the office of the Block Land and Land Reforms Officer, petitioners came to know that the Sub-Divisional Land and Land Reforms Officer was taking steps for inclusion of the names of the private respondents in terms of the order passed by the District Land and Land Reforms Officer. After obtaining the certified copies of the proceedings started at the instance of the private respondents for recording their name in the Record of Rights, the petitioners came to know that the private respondents filed four appeals against the vendors of the petitioners challenging the orders passed in the Mutation cases by the Prescribed Authority. The petitioners state that from the certified copies of the proceedings initiated for recording the names of the private respondents in the Record of Rights, the petitioners came to know that the appeals were filed accompanied by applications under Section 5 of the Limitation Act and such applications were allowed without serving any notice upon the petitioners or their vendors. The petitioners further state that the appellate authority passed the order dated 28.02.2025 without issuing any notice either upon the petitioners or their vendors.
3. Mr. Roy, learned advocate appearing for the petitioners submitted that the appellate authority ought not to have condoned the delay in preferring the appeal under Section 54 of the 1955 Act without giving any opportunity of hearing to the petitioners. He submitted that the appellate authority exceeded its jurisdiction in condoning the delay *ex parte* thereby taking away the valuable right of the petitioners without giving them any opportunity to contest the application for condonation of delay. In support of such contention he placed reliance upon a decision of the Hon'ble Division Bench of this Court in the case of **Samir Kumar Sarkar vs. State of West Bengal and Ors¹**.

1 (2015) 1 CHN 6 (DB).

4. Objection against maintainability of these writ petitions was raised by the State and the private respondents.
5. Mr. Dey, learned Additional Government Pleader submitted that the West Bengal Land Reforms and Tenancy Tribunal was established for the adjudication and trial by such tribunal of disputes relating to and/or arising out of land reforms or tenancy in land and other matters under the specified Act and for matters connected therewith or incidental thereto. He further contended that the jurisdiction of all courts, excepting the Division Bench of the High Court exercising writ jurisdiction under Articles 226 and 227 of the Constitution of India and the Supreme Court of India, regarding any adjudication and trial of such disputes, claims, objections and applications and for matters connected therewith or incidental thereto have been excluded. He also contended that the jurisdiction of the High Court under Article 226 and 227 of the Constitution of India has not been taken away by the West Bengal Land Reforms and Tenancy Tribunal Act 1997 but the exercise of jurisdiction under Article 226 and 227 of the Constitution of India is restricted only before the Division Bench of the High Court as the Tribunal was established to provide relief to litigants expeditiously and to reduce the pressure of the High Court. He further contended that the West Bengal Land Reforms Act is a “specified Act” under Section 2(r) of the West Bengal Land Reforms and Tenancy Tribunal Act 1997 (for short “the 1997 Act”) and in view of the provisions laid down under Section 6, 7 and 8 of the 1997 Act, this Court should not entertain these writ petitions. In support of such contention, the learned Additional Government Pleader placed reliance upon the decision of the Constitution Bench of the Hon’ble Supreme Court in the case of ***L. Chandra Kumar vs. Union of India***².
6. Mr. Dey also placed reliance upon the decisions of the Hon’ble Division Bench in the case of ***Ananda Koley vs. State of West Bengal and Ors***³;

² (1997) 3 SCC 261

³ (2016) 3 WBLR 577

and **Indian Oil Corporation Limited vs. Anchit Agarwal**⁴ in support of the aforesaid contention. He also placed reliance upon a judgment and order dated 11.10.2018 passed by the co-ordinate bench in the case of **Rita Basu and Ors. vs. State of West Bengal and Ors.**⁵ in support of his contention that a writ petition under Article 226 of the Constitution of India is not maintainable before the Single Bench, if the issue is in relation to or arising out of an Act which is a “specified Act” under the 1997 Act.

7. Mr. Mukhopadhyay, learned advocate appearing for the private respondents contended that it is upon the aggrieved party to move the Tribunal for obtaining redress in the manner provided by a statute and the High Court should not entertain a petition under Article 226 of the Constitution of India and will leave the party applying to it to seek resort to the machinery so set up under the Statute. He contended that an alternative and efficacious remedy is available under the West Bengal Land Reforms and Tenancy Tribunal Act 1997 before the West Bengal Land Reforms and Tenancy Tribunal (for short “WBLRTT”) and this Court should not permit the machinery created under the 1997 Act to be bypassed. He, thus, contended that this petition under Article 226 of the Constitution of India should not be entertained. In support of such contention he placed reliance upon a decision of the Hon’ble Supreme Court delivered on November 12, 2025 in the case of **Rikhab Chand Jain vs. Union of India**⁶.
8. In reply, Mr. Roy, learned advocate appearing for the petitioner contended that existence of an alternative remedy does not by itself bar the High Court from exercising its jurisdiction under Article 226 of the Constitution of India where there has been a violation of the principles of natural justice or the order or proceedings are wholly without jurisdiction. In support of such contention he placed reliance upon a decision of the Hon’ble Supreme Court

4 2023 (1) CHN(CAL) 493

5 WP 1205 of 2010

6 Civil Appeal no. 6719 of 2012.

in **Magadh Sugar and Energy Limited vs. State of Bihar and others**⁷.

He contended that the application under Section 5 of the Limitation Act has been allowed without giving any opportunity to the petitioner to contest the same and, therefore, there has been a violation of the principles of natural justice. He, therefore, contended that the existence of an alternative remedy provided under the 1997 Act cannot be a bar in exercising the jurisdiction by the High Court under Article 226 of the Constitution of India. Mr. Roy placed reliance upon an order dated January 13, 2026 passed by a co-ordinate bench in the case of **Md. Masidul Islam vs. State of West Bengal and Ors.**⁸ in support of his contention that a writ petition is maintainable before the Single Bench when no order has been passed by the Tribunal.

9. Heard the learned advocates for the parties and perused the materials on record.
10. Petitioners are aggrieved by the orders passed by the appellate authority allowing the application under Section 5 of the Limitation Act as well as the subsequent orders allowing the appeals thereby setting aside the orders passed by the Prescribed Authority.
11. The question that arises for consideration is whether in view of the remedy provided under the 1997 Act this Court should entertain the instant application under Article 226 of the Constitution of India.
12. The West Bengal Land Reforms and Tenancy Tribunal Act 1997 received the assent of His Excellency the Governor of the State on 12.12.1997. The said Act was promulgated to provide for the setting up of a Land Reforms and Tenancy Tribunal in pursuance of Article 323(B) of the Constitution of India and for adjudication and for trial by such Tribunal of disputes, claims, objections and applications relating to, or arising out of land reforms or tenancy and other matters under a specified Act and for matters connected

7 (2022) 16 SCC 428

8 WPA No. 27327 of 2025

therewith or incidental thereto. “Specified Act” is defined under Section 2(r) of the 1997 Act which includes the West Bengal Land Reforms Act, 1955.

13. On the issue of exclusion of the power of judicial review of the High Court, The Constitution Bench of the Hon’ble Supreme Court in **L. Chandra Kumar (supra)**⁹ held that the jurisdiction conferred upon the High Courts under Article 226/227 and upon the Supreme Court under Article 32 of the Constitution of India is a part of the basic structure of our Constitution and the power of judicial review cannot wholly be excluded. It was further held that the Tribunals created under Article 323A and 323B of the Constitution have the competence to test the constitutional validity of statutory provisions and rules except the vires of the legislation which creates the particular Tribunal. The Constitution Bench held that such Tribunals will function as the courts of first instance in respect of the areas of law for which they have been constituted and all decisions of those tribunals will, however, be subject to Judicial Review of the Division Bench of High Courts under Article 226/227 of the Constitution of India and from the decision of the Division Bench of the High Court, the aggrieved party could move the Hon’ble Supreme Court under Article 136 of the Constitution of India.

14. The Hon’ble Supreme Court in paragraphs 78, 92 and 99 of the said Report held as follows-

“78.....We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.”

“92. In the view that we have taken, no appeal from the decision of a Tribunal will directly lie before the Supreme Court under Article 136 of the Constitution; but instead, the aggrieved party will be entitled to move the High Court under Articles 226/227 of the Constitution and from the decision of the Division Bench of the High

⁹ (1997) 3 SCC 261

Court the aggrieved party could move this Court under Article 136 of the Constitution.”

“99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the “exclusion of jurisdiction” clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.”

(emphasis supplied)

15. It, therefore, follows from the decision of the Constitution Bench that it is not open for the litigants to approach the High Courts directly in respect of the matters falling within the jurisdiction of the concerned Tribunal.

16. In **State of W.B. v. Ashish Kumar Roy**¹⁰ the Hon’ble Supreme Court reiterated the observations of the Constitution Bench decision in the case of **L. Chandra Kumar (supra)**¹¹ and it was held that as long as the tribunal constituted performs a supplementary role, without exclusion of the jurisdiction of the High Court under Article 226 and 227 and under Article

¹⁰ (2005) 10 SCC 110

¹¹ (1997) 3 SCC 261

32 of the Constitution of India, the validity of the legislation constituting such tribunals could not be doubted. It was further held that the Tribunals would act as authorities of first instance whose decision could be challenged before the Division Bench of the High Court in its writ jurisdiction.

17. The Hon'ble Supreme Court in **Leelavathi N. vs. State of Karnataka**¹² reiterated the principles of law laid down in **Radha Krishan Industries vs. State of Himachal Pradesh & Ors.**¹³ which is extracted hereinafter.

“27. The principles of law which emerge are that:

27.1. The power Under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers Under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy Under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”

¹² 2025 INSC 1242=2025 SCC Online SC 2253

¹³ (2021) 6 SCC 771

18. **Leelavathi N.(supra)**¹⁴ also noticed the decisions rendered by three Hon'ble Judges of the Supreme Court in **PHR Invent Educational Society vs. UCO Bank & Ors**¹⁵, wherein after reiterating the well-known exceptions when a petition under Article 226 of the Constitution of India could be entertained in spite of availability of an alternative remedy, it was clarified that the High Court will not entertain a petition under Article 226 of the Constitution of India if an effective alternative remedy is available to an aggrieved person or statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance. The Hon'ble Supreme Court in paragraph 35 of the said reports held thus-

"35. Recently, a three-Judge Bench of this Court in PHR Invent Educational Society v. UCO Bank and Others, reported in (2024) 6 SCC 579, has held as under:

"37. It could thus clearly be seen that the Court has carved out certain exceptions when a petition Under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

- (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;*
- (ii) it has acted in defiance of the fundamental principles of judicial procedure;*
- (iii) it has resorted to invoke the provisions which are repealed; and*
- (iv) when an order has been passed in total violation of the principles of natural justice.*

38. It has however been clarified that the High Court will not entertain a petition Under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance."

(Emphasis Supplied)

¹⁴ 2025 INSC 1242=2025 SCC Online SC 2253

¹⁵ (2024) 6 SCC 579

19. The Hon'ble Supreme Court in **Leelavathi N. (supra)**¹⁶ after perusal of the judgments, in paragraph 36 of the Reports, concluded that where an efficacious alternate remedy is available, the High Court should not entertain a petition under Article 226 of the Constitution of India in matters falling squarely within the domain of the Tribunals.
20. There is no quarrel to the proposition of law laid down in **Magadh Sugar and Energy Limited**¹⁷ (supra) that the existence of an alternative remedy does not itself bar the High Court from exercising its jurisdiction under Article 226 of the Constitution in certain contingencies. The Hon'ble Supreme Court further observed that the High Court has the discretion not to entertain a writ petition when an effective alternative remedy is provided by law.
21. From the aforesaid discussion, it logically follows that exercise of discretion by the High Court to entertain an application under Article 226 of the Constitution would largely depend upon whether the alternative remedy available to the aggrieved person is an effective one or not.
22. The Hon'ble Division Bench in the case of **Ananda Koley (supra)**¹⁸ after noting the provisions of Article 323 B of the Constitution of India and the interpretation of the same as made in the case of **L. Chandra Kumar (supra)**¹⁹ held that a tribunal created under Article 323B of the Constitution is a Court of first instance and in a case coming within the jurisdiction of the West Bengal Land Reforms and Tenancy Tribunal, the Court setting under Article 226/227 of the Constitution of India cannot act as a court of first instance. The Hon'ble Division Bench held that there are two distinguishable features so far as the tribunals created by virtue of any

¹⁶ 2025 INSC 1242=2025 SCC Online SC 2253

¹⁷ (2022) 16 SCC 428

¹⁸ (2016) 3 WBLR 577

¹⁹ (1997) 3 SCC 261

statute whether the power conferred from the provisions of Article 323A or 323B of the Constitution of India, which are as follows-

- (i) The Tribunal is a court of first instance and under the provisions of Section 8 of the 1997 Act the jurisdiction of a Court sitting under Article 226 and 227 of the Constitution of India has been ousted to act as the Court of first instance and that judicial review is a basic structure of the Constitution of India.
- (ii) The Tribunal created under the provisions of Article 323A of the Constitution of India or by virtue of the provisions of the Act which is legislated by the State Legislature in exercise of power conferred on it by the provision of Article 323B of the Constitution of India is competent to examine the vires of any provision of an Act save and except any provision of an Act which creates that tribunal.

23. The Hon'ble Division Bench in the case of ***Indian Oil Corporation Limited (supra)***²⁰ after considering the decision of the Hon'ble Supreme Court in the case of ***L. Chandra Kumar (supra)***²¹ and ***Ashish Kumar Roy (supra)***²² held that it indubitably follows that for adjudication of any dispute which touches upon any provision of a specified Act under the West Bengal Land Reforms and Tenancy Tribunal Act 1997, one must approach the Tribunal at the first instance and all other civil courts including the High Court except the Division Bench exercising the writ jurisdiction under Article 226/227 of the Constitution of India do not have any power and jurisdiction to entertain such dispute.

24. From the aforesaid discussion it logically follows that the jurisdiction of the single bench of the High Court under Article 226 and 227 of the

20 2023 (1) CHN (CAL) 493

21 (1997) 3 SCC 261

22 (2005) 10 SCC 110

Constitution of India has been expressly excluded by virtue of Section 8 of the 1997 Act in respect of matters falling within the jurisdiction, power and authority of the WBLRTT.

25. The decision of the co-ordinate bench in the case of **Rita Basu (supra)**²³ supports the aforesaid view taken by this Court wherein it was held that the writ petition before the Division Bench without exhausting the remedy before the Tribunal is not maintainable. It was further held that the writ petition under Article 226 of the Constitution of India is not maintainable before the Single Bench of the High Court.
26. The Hon'ble Supreme Court in **Rikhab Chand Jain (supra)**²⁴ reiterated the proposition of law laid down in the Constitution Bench decision in the case **Thansingh Nathmal v. Supdt. of Taxes**²⁵ that when it is open to the aggrieved petitioner to move another tribunal for obtaining redress in the manner provided by the statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution of India, the machinery created under the statute to be bypassed and will leave the party applying to it to seek resort to the machinery so set up.
27. This Court shall now consider whether the remedy provided under the 1997 Act is an effective one or not.
28. Section 6 of the 1997 Act deals with the jurisdiction, power and authority of the Tribunal. Section 6 states that the Tribunal shall, with effect from such date as may be appointed by the State Government by notification in that behalf, exercise jurisdiction, power and authority in relation to any order made by an authority under a specified Act; an application complaining inaction or culpable negligence of an Authority under a specified Act; an appeal against an order of the Mines Tribunal appointed under Section 36 of the West Bengal Estates Acquisition Act, 1953; applications relating to

23 WP 1205 of 2010

24 Civil Appeal no. 6719 of 2012

25 AIR 1964 SC 1419

matters under any provision of a specified Act or matters relating to any constitutional validity of any Act under the provisions of a specified Act; and adjudication of matters, proceedings, cases and appeals which stand transferred from the High Court and other Authorities to the Tribunal in accordance with the provisions of that Act.

29. Section 7 of the 1997 Act states that the Tribunal shall with effect from the date appointed by the State Government under Section 6 exercise the jurisdiction, power and authority exercisable immediately before that date by any Court including the High Court except the writ jurisdiction under Article 226 and 227 of the Constitution of India exercised by a Division Bench of the High Court but excluding the Supreme Court, for adjudication or trial of disputes and applications relating to land reforms and matters connected therewith or incidental thereto and other matters arising out any provisions of a specified Act.

30. Section 8 of the 1997 Act deals with the exclusion of jurisdiction of courts. It states that on and from the date from which jurisdiction, power and authority becomes exercisable under that Act by the Tribunal, the High Court except where the Court exercises its jurisdiction under Articles 226 and 227 of the Constitution of India by a Division Bench , or any Civil Court except the Supreme Court shall not entertain any proceeding or application or exercise any jurisdiction, power or authority in relation to adjudication or trial of disputes or applications relating to land reforms or any matter connected therewith or incidental thereto or any other matter under any provision of a specified Act.

31. Section 10(1) of the 1997 Act states that a person aggrieved by any order passed by any authority or any action taken either by an authority or by the State Government may prefer an appeal to the Tribunal for the redressal of his grievance.

32. Sub-section (5) of Section 10 states when an application under sub-section (1) has been admitted by the Tribunal it shall decide and dispose of such

application as expeditiously as possible and ordinarily within six months from the date of such admission or from the date of receipt of records from the concerned authority or the State Government as the case may be. Thus, the statute mandates expeditious disposal of matters before the WBLRTT.

33. Sub-section (7) of Section 10 enables the Tribunal to pass interim orders subject to fulfilment of certain conditions. Sub-section (7) of Section 10 lays down the conditions for making interim orders. Section 10(7) reads as follows-

“(7) Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceeding relating to, an application made under sub-section (1) unless—

(a) copies of such application and of all documents in support of the plea for such interim order are duly furnished seven days in advance to each of the parties against whom such application is made or is proposed to be made;

(b) an opportunity of being heard is given to each of the parties against whom such application is made:

Provided that the Tribunal may pass an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being immediately caused to the applicant:

Provided further that if the application referred to in sub-section (1) is not decided and disposed of within a period of six months from the date of the interim order, the interim order shall, if it is not vacated earlier, stand vacated on the expiry of the period as aforesaid unless, for special reasons or in the interest of justice, the interim order is varied, modified or extended by the Tribunal.”

34. Section 13 of the 1997 Act provides for execution of order passed by the Tribunal. It states that an interim order in and an order finally disposing of any matter or proceeding by the Tribunal, including an order as to costs may be executed in such manner as may be prescribed. Rule 8 of the West Bengal Land Reforms and Tenancy Tribunal Rules, 1997 lays down the manner in which the orders of the Tribunal may be executed.

35. Section 15 of the 1997 Act vests power upon the Tribunal to punish for contempt of the Tribunal.

36. Section 16 of the 1997 Act deals with the powers of the Tribunal. Section 16 reads as follows-

“16. Power of Tribunal to take evidence on oath etc.—The Tribunal shall for the purposes of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters:—

- (a) summoning and enforcing the attendance of any person and examining him on oath or affirmation;*
- (b) requiring the discovery, inspection and production of documents;*
- (c) examining witness or issuing commissions for the examination of witness;*
- (d) reviewing its decisions;*
- (e) dismissing an application or proceeding for default or deciding it ex parte;*
- (f) setting aside any order of dismissal of any application or proceeding for default or any order passed by the Tribunal ex parte;*
- (g) such other matters as may be prescribed.”*

37. Thus, the Tribunal constituted under the 1997 Act has the power to review its decisions. It also has the power to dismiss an application for default or proceed ex parte. Tribunal has the power to restore any application which was dismissed for default and also set aside any order passed ex parte.

38. After going through the aforesaid provisions of the 1997 Act and the Rules framed thereunder, this Court is of the considered view that the WBLRTT is equipped with all the powers to effectively and holistically deal with a matter presented before it. To the mind of this Court, the machinery provided under the 1997 Act is an effective one.

39. Prior to the amendment effected by the West Bengal Act 7 of 2001 which was given retrospective effect from 03.08.1998, Clause (a) of Section 6 of the 1997 Act read as follows- “an order in original made by an Authority under the specified Act”. By virtue of the said amendment the words “an order in original” have been substituted by the words “any order”. The object behind

such amendment was that any order, whether it is original or appellate, interim or final that has been made by an Officer or Authority or functionary exercising powers or discharging functions as such under a “specified Act” has to be challenged by any person aggrieved against such order before the Tribunal.

40. In view of the statutory mandate under 1997 Act, this Court holds that any order passed by an “Authority” as defined under Section 2(b) of the 1997 Act can be challenged only before the WBLRTT at the first instance and the jurisdiction of this High Court under Article 226 and 227 of the Constitution exercised by a judge sitting singly would stand excluded in view of the specific bar created under Section 7 read with 8 of the 1997 Act and all decisions of the WBLRTT shall be subject to Judicial Review by the High Court under Article 226/227 of the Constitution exercised by the Division Bench of the High Court.

41. In the case on hand, the orders passed by the Appellate authority in appeals filed under Section 54 of the West Bengal Land Reforms Act, 1955 have been challenged in these writ petitions. The orders under challenge in these writ petitions squarely falls under clause (a) of Section 6 of the 1997 Act.

42. In view of the aforesaid discussion, this Court holds that the orders impugned herein can be assailed only before the WBLRTT at the first instance and the jurisdiction of the High Court under Article 226 of the Constitution of India exercised by a judge sitting singly would stand excluded.

43. The 1997 Act created a machinery for the purpose of adjudication of the disputes and matters falling under the specified Act. This Court has already held that the machinery created under the 1997 Act is an effective alternative remedy. By applying the well settled proposition of law laid down in **Thansingh Nathmal**²⁶ (supra) as reiterated in **Rikhab Chand Jain**²⁷

²⁶ AIR 1964 SC 1419

²⁷ Civil Appeal no. 6719 of 2012

(supra), this Court is not inclined to permit the petitioner to bypass the WBLRTT i.e., the machinery created under the 1997 Act by entertaining these applications under Article 226 of the Constitution of India.

44. In the case of **Samir Kumar Sarkar (supra)**²⁸ an application under Article 226 of the Constitution of India was filed before the Hon'ble Division Bench challenging inaction on the part of the WBLRTT in not extending some interim protection during the pendency of the Original Application before the WBLRTT. In the said reported case also, the Tribunal was approached at the first instance and thereafter an application under Article 226 was filed before the Hon'ble Division Bench.

45. However, in the case on hand the petitioner has directly approached this Court under Article 226 of the Constitution of India challenging an order passed by an authority under the West Bengal Land Reforms Act, 1955. The decision in **Samir Kumar Sarkar (supra)** being distinguishable on facts cannot come to the aid of the petitioner.

46. The issue that fell for consideration before the co-ordinate bench in the case of **Md. Masidul (supra)**²⁹ was when the West Bengal Administrative Tribunal is non-functional due to non-availability of Chairman and members, litigants on issues concerning State Government service are required to approach the single bench of the High Court or Division Bench without approaching the single bench. In that case the Tribunal was non-functional due to non-availability of the Chairman and members. The said decision is distinguishable on facts as it is not the case of the petitioner herein that the WBLRTT is non-functional. Thus, the said decision also cannot come to the aid of the petitioner.

47. The Hon'ble Division Bench in **Mobile Store Limited vs. Joint Commissioner, Commercial Taxes and others**³⁰ after noticing that the

²⁸ (2015) 1 CHN 6 (DB).

²⁹ WPA No. 27327 of 2025

³⁰ 2022 SCC Online Cal 4116

Tribunal was non-functional on account of lack of quorum held that the assesses are entitled to approach the High Court under Article 226 of the Constitution of India. The said decision being distinguishable on facts cannot be applied to the case on hand.

48. For all the reasons as aforesaid the writ petitions stand dismissed as not entertained and the petitioners are left free to approach the appropriate forum in accordance with law. It is, however, made clear that this Court has not gone into the merits of the claims and counter claims of the respective parties and all the observations made hereinbefore are only for the purpose of supporting the ultimate conclusion and the same shall not prejudice the parties in future proceedings. There shall be, however, no order as to costs.
49. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)