Sl.3
13.11.2026
Court No.6
BP

C.O. 3485 of 2026

Subhendu @ Suvendu Jana
-versus-
Smt. Kakali Maity & Anr.

Mr. Gautam Guria
..for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the pre-emptor and is directed against the judgement dated 15th May, 2026 passed by the learned Additional District Judge, Haldia, Purba Medinipur in Miscellaneous Appeal No. 07 of 2024.

The petitioner filed an application under Section 8 and 9 of the West Bengal Land Reforms Act praying for an order of pre-emption. At the time of filing of such application the petitioner deposited only a part consideration amount together with 10% thereon. The balance consideration money together with 10% thereon was submitted at a later point of time. The learned trial judge rejected the application under Sections 8 and 9 of the West Bengal Land Reforms Act, 1955 on the ground that the petitioner did not deposit the entire consideration money together with further sum of 10% of that amount as per the provisions of Section 8(1) of the 1955 Act.

The petitioner challenged the said order by preferring a miscellaneous appeal being no.7 of 2024

which stood dismissed by the impugned judgement and order dated 15th May, 2026.

The learned advocate appearing for the petitioner submits that an inflated amount of the consideration money was stated in the impugned deed. He submits that Section 9 of the West Bengal Land Reforms Act, 1955 contemplates an enquiry to be made as to the actual amount of consideration money that has been paid by the pre-emptee to his vendor. He submits that unless an adjudication as contemplated under Section 9 of the 1955 Act is made, the pre-emptor is not under a statutory obligation to deposit the amount of consideration money as stated in the impugned sale deed together with 10% thereon.

The Hon'ble Supreme Court in the case of **Barasat Eye Hospital & Ors. Vs. Kaustabh Mondal reported at AIR OnLine SC 2075** held that even in the event a pre-emptor raises doubts regarding the consideration amount, enquiry into the said aspect can be done only upon payment of the full amount along with the application. The Hon'ble Supreme Court further held that the phrase "the remainder, if any, being refunded to the applicant" would include to mean the repayment of the initial deposit made along with the application, if considered to be in excess. The Hon'ble Supreme Court further observed that the pre-requisite to even endeavour to exercise the right of pre-emption is the deposit of the amount of sale

consideration and the 10% levy on that consideration, as otherwise, Section 8(1) of the said Act will not be triggered off, apart from making even the beginning of Section 9(1) of the said Act otiose.

Thus, it is now well settled that even if the petitioner contends that an inflated amount has been shown in the impugned deed of transfer such an enquiry can be made only after the full consideration amount as stated in the impugned deed together with 10% thereof is paid.

In the case on hand it is not in dispute that only a portion of the consideration money as stated in the deed of sale together with 10% thereon was deposited and the balance amount was deposited beyond the prescribed period of limitation for exercising the right of pre-emption. The learned judge of the appellate court as well as the appellate court correctly applied the proposition of law laid down by the Hon'ble Supreme Court in Barasat Eye Hospital (supra). The orders impugned do not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

Accordingly, C.O. 3485 of 2026 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)