In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya

WPLRT No. 126 of 2023

Saregama India Limited
Vs.
State of West Bengal and others

For the petitioner	:	Mr. Saktinath Mukherjee, Sr. Adv., Mr. Arindam Banerjee, Sr. Adv., Mr. Pranit Bag, Mr. Pourush Bandyopadhyay, Mr. Victor Chatterjee
Heard and reserved on	:	20.01.2026
Judgment on	:	03.02.2026

Sabyasachi Bhattacharyya, J.:-

1. The starting point of the present narrative is an application by the writ petitioner Saregama India Limited (previously, the Gramophone Company Limited) under Section 4C of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as "the 1955 Act") for conversion of the subject plot for the purpose of residential and commercial user. The said application gave rise to Miscellaneous Case No.01 of 2020 before the First Authority, that is the Additional District Magistrate and District Land and Land Reforms Officer (DL & LRO), North 24 Parganas at Barasat, who, *vide* Order No.4 dated October 14, 2020, disallowed the said application for conversion on the ground that the writ petitioner is a lessee of the plot-in-question within the contemplation of Section 4B of the 1955 Act and is not entitled to seek such conversion, which right is available only to *raiyats*.

2. The brief backdrop of the case is that a total property comprised of 16.9 acres of land with structure, partially used as factory/workshop of the petitioner-company, was owned by the petitioner at the time when the West Bengal Estates Acquisition Act, 1953 (for short, "the 1953 Act") came into operation. The said property comprised of two portions, one on each side of the Jessore Road near Kolkata – one measuring about 1.96 acres and the other about 14.33 acres.

3. *Vide* Order No.1536-L.Ref./5M-2/96 dated September 20, 1999 issued by the Land Reforms Department, Government of West Bengal, the State of West Bengal allowed the petitioner-company to retain the total area of 16.29 acres for factory purpose, subject to the condition that an area of 1.96 acres, as mentioned above, which was not used for the purpose of running a factory, should be brought to use for the said purpose within two years from the issuance of the order. In case of the failure on the part of the petitioner-company to do so, the order of retention was to be reviewed under the proviso to Section 6(3) of the 1953 Act for resumption.

4. Subsequently, upon the failure of the petitioner to use the said strip of 1.96 acres of land for factory purpose, the same was resumed by the State of West Bengal. Being aggrieved by the resumption/vesting, the petitioner-company filed OA No.299 of 2005, which was dismissed by the Land Reforms and Tenancy Tribunal *vide* its judgment dated February 18, 2013, holding that the resumption of land of 1.96 acres was valid.

5. The petitioner-company moved this Court against the same, giving rise to WPLRT No.67 of 2013, which was allowed by this Court *vide* order dated January 17, 2014.

6. However, the said 1.96 acres of land is not the subject-matter of the present dispute. The genesis of the present cause of action arose with an application being filed by the petitioner-company on April 30, 2019 for conversion of the nature and character of the plot of land comprised of 14.33 acres in total under Section 4C of the 1955 Act.

7. Since the said application was kept pending for a considerable period, the petitioner moved OA No.2202 of 2019 (LRTT), which was dispose of on July 13, 2020 by the Fourth Bench of the West Bengal Land Reforms and Tenancy Tribunal with a direction upon the DL & LRO to dispose of the said application within a period of three months from the date of communication of the order.

8. Accordingly, the DL & LRO passed an order dated October 14, 2020 rejecting the application for conversion. The said order was challenged under Section 54 of the 1955 Act before the Commissioner, Presidency Division, who, *vide* order dated March 28, 2022, affirmed the rejection of the conversion application on different grounds than that attributed by the DL & LRO. Whereas the DL & LRO had held that the petitioner-company was a lessee by operation of Section 4B of the 1955 Act, since the land was retained under Section 6(3), read with Section 6(1)(g) of the 1953 Act, the Commissioner was of the view that the assertion made by the writ petitioner regarding the factory being operational at present brought about a new dimension to the conversion application and observed that there are a number of standard procedures which need to be followed under various labour laws in case of closure of the factory and consequent rehabilitation of the workers. It was observed that closure of such a big factory has numerous socio-economic consequences which need to be addressed by appropriate authorities before any conversion. It was also held that the very purpose of retention of the land to run a factory would be defeated by the conversion and accordingly, the appeal of the petitioner was dismissed.

9. Being thus aggrieved, the petitioner moved the Tribunal, upon which, by the impugned judgment dated January 3, 2023, the First Bench of the said Tribunal dismissed the challenge of the writ petitioner bearing OA No.1635 of 2015 (LRTT), against which the present challenge has been preferred.

10. Learned senior counsel appearing for the petitioner argues that although an order was passed, purportedly permitting the petitioner to retain the land, being required for factory purpose under Section 6(3) of the 1953 Act, such permission/order was a surplusage since, in any event, the petitioner was entitled to retain the subject-land of 14.33 acres, along with structure, both under Section 6(1)(b) and Section

6(1)(c) of the said Act, since it fell under the ceiling limit for the purpose of such retention, which was 15 acres.

11. Under Clause (b) of Section 6(1), an intermediary would be entitled to retain, from the dated of vesting, the total land comprised in or appertaining to buildings and structures. Thus, the portion of the property where the structure stands, in any event, comes within the purview of the said clause.

12. Also, as per Clause (c) of Section 6(1), non-agricultural land in *khas* possession of the intermediary, not exceeding 15 acres in area, comes within the purview of land which the intermediary is entitled to retain automatically.

13. Since the total extent of the subject-property is 14.33 acres, which is below the ceiling limit of 15 acres as per Clause (c) of Section 6(1) in any event, the petitioner was entitled to retain the land, with or without any further permission.

14. As such, with the coming into force of the 1953 Act, the status of the writ petitioner became that of a *raiyat* under the State.

15. Hence, it is argued that the premise on which the Tribunal as well as the fora below proceeded, that the petitioner was a lessee in respect of the property, is bad in law.

16. Learned senior counsel places reliance on the provisions of Section 4B(2) of the 1955 Act and submits that the same is not attracted in the present case, since the retention was automatic, under Clauses (b) and (c) of sub-section (1) of Section 6 of the said Act and the order under

Section 6(1)(g), read with Section 6 (3) of the Act was a mere surplusage.

17. As per Section 4C of the said Act, a "*raiyat*" holding any land may apply to the Collector for change of area or character of such land or for conversion of the same for any purpose other than the purpose for which it was settled or was being previously used or for alteration in the mode of use of such land.

18. It is argued that after the coming into force of the 1955 Act, the Act took over insofar as the lands covered by the same are concerned.

19. Thus, although initially the land-in-question was used as a factory and a superfluous order under Section 6(3) was passed, upon the land being retained within the contemplation of Section 6(1), clauses (b) and (c) of the 1953 Act, the petitioner-company automatically continued as a *raiyat.* Hence, the petitioner comes within the purview of Section 4C of the 1955 Act for the purpose of enabling the petitioner to apply for conversion as a *raiyat.* The previous user of land cannot be a deterrent, it is contended, for seeking conversion since the petitioner is now governed by the 1955 Act, which specifically permits a *raiyat* to apply for conversion of the character of the land.

20. Learned senior counsel argues that in the event Section 6(1), Clauses (a) to (e) of the 1953 Act apply, the retention is automatic, irrespective of the applicability of Section 6(3) over and above the same.

21. By placing reliance on the language of Rule 4A of the West Bengal Estates Acquisition Rules, 1954 ("the 1954 Rules", in short), learned senior counsel argues that sub-rule (1) thereof stipulates that every intermediary entitled to retain possession of lands under sub-section (1) of Section 6 of the 1953 Act, shall, if he chooses to retain any such land, make his choice by furnishing to the Settlement Officer or to the Revenue Officer a statement in writing in the form and within the time stipulated therein. The proviso thereto, it is submitted, stipulates that if the area of land held by a *raiyat* or an under-*raiyat*, who is deemed to be an intermediary under Section 52, does not exceed the limit laid down under Clause (c) of sub-section (1) of Section 6, he shall not be required to exercise such choice.

22. Read in conjunction with the said Rule, learned senior counsel also relies on sub-section (5) of Section 6 of the 1953 Act, which provides that an intermediary is to exercise his choice for retention of land under sub-section (1) in such time and manner as prescribed; but if no choice is exercised, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the land as does not exceed the limit specified in Clause (c), etc., of the said sub-section.

23. Thus, it is reiterated that vesting is automatic and no form is required to be submitted for retention of land, if the land held by the *raiyat* is within the permissible ceiling limit.

24. Learned senior counsel cites *State of West Bengal and others v. Calcutta Mineral Supply Company Private Limited and another*, reported at *(2015) 8 SCC 655*, in support of the proposition that if a land is governed by

Section 6(1), Clauses (a) to (e), it could not be subjected to Section 6(3) of the 1953 Act.

25. Learned senior counsel next cites a Division Bench judgment of this Court in *BRC Construction Company Private Limited and Another v. State of West Bengal and Others*, reported at *2015 SCC OnLine Cal 5146*, where it was observed, *inter alia*, that as the land of the petitioner therein was well within the ceiling limit with existing structures, even assuming that Section 6(3) applies to the land, still the State cannot resume the land-in-question.

26. Learned senior counsel also relies on *State of West Bengal and Others v. Ratnagiri Engineering Private Limited and Others*, reported at *(2009) 4 SCC 453*, in support of the said arguments.

27. Lastly, learned senior counsel relies on another co-ordinate Bench Judge of this Court in the matter of *Juhi Finalease (P) Ltd. & Anr. v. State of West Bengal & Ors.*, reported at *2017 SCC OnLine Cal 5043*, where *BRC Construction Company Private Limited (supra)*[1] was relied on.

28. As recorded in our order dated January 20, 2026, since none appeared for the State-respondents at the time of hearing, the writ petition is being disposed of *ex parte* on merits.

29. The short question which falls for consideration in the present writ petition is whether, in view of an order being passed under Section 6(3) of the 1953 Act, the status of the petitioner-company would be that of a

[1] ***BRC Construction Company Private Limited and Another v. State of West Bengal and Others*, reported at *2015 SCC OnLine Cal 5146***

lessee by operation of Section 4B(2) of the 1955 Act. A consequential issue which falls for consideration is the interplay between Sections 6(1)(b) and (c) on the one hand and 6(3), read with Section 6(1)(g), of the 1953 Act on the other.

30. In order to resolve the said issues, the language of Section 6 of the 1953 Act is required to be looked into. The said provision is set out hereinbelow:

*"**6. Right of intermediary to retain certain lands**.—(1) Notwithstanding anything contained in sections 4 and 5, an intermediary shall, except in the cases mentioned in the proviso to sub-section (2) but subject to the other provision of that sub-section, be entitled t retain with effect from the date of vesting—*

(a) land comprised in homesteads;

(b) land comprised in or appertaining to buildings and structures 1 owned by the intermediary or by any person, not being a tenant, holding under him by leave or license;

Explanation.-- For the purposes of this clause 'tenant' shall not include a thika tenant as defined in the Calcutta Thika Tenancy Act, 1949 (West Ben. Act II of 1949);

(c) non-agricultural land in his khas possession including land held under him by any person, not being a tenant, by leave or license, not exceeding fifteen acres in area, and excluding any land retained under clause (a):

Provided that the total area of land retained by an intermediary under clauses (a) and (c) shall not exceed twenty acres, as may be chosen by him:

Provided further that if the land retained by an intermediary under clause (c) or any part thereof is not utilised for a period of five consecutive years from the date of vesting, for a gainful or productive purpose, the land or the part thereof may be resumed by the State Government subject to payment of compensation determined in accordance with the principles laid down in sections 23 and 24 of the Land Acquisition Act, 1894 (I of 1894);

(d) agricultural land in his khas possession, not exceeding twenty-five acres in area, as may be chosen by him:

Provided that in such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, an intermediary shall be entitled to retain all agricultural land in his khas possession, or any part thereof as may be chosen by him;]

(e) tank-fisheries;

Explanation.--'Tank fishery' means a reservoir or place for the storage of water, whether formed naturally or by excavation or by construction of *embankments, which is being used for pisciculture or for fishing, together with the sub-soil and the banks of such reservoir or place, except such portion of the banks as are included in a homestead or in a garden or orchard and includes any right of pisciculture or fishing in such reservoir or place;*

(f) subject to the provisions of sub-section (3), land comprised in tea gardens or orchards or land used for the purpose of livestock breeding, poultry farming or dairy;

(g) subject to the provisions of sub-section (3), land comprised in mills, factories, or workshops;

(h) where the intermediary is a local authority,-land held by such authority, notwithstanding such land or any part thereof may have been let out by such authority:

Provided that where any land which has been let out by any local authority is retained by such authority under this clause. no person holding such land shall have any right of occupancy therein, and every such person shall be bound to deliver possession of the land to the local authority when required by it for its purposes;

(i) where the intermediary is a corporation or an institution established exclusively for a religious or a charitable purpose or both, or is a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both land held in khas by such corporation or institution, or person, for such purpose including land held by any person, not being a tenant, by leave or license of such Corporation or institution or person;

(j) where the intermediary is a co-operative society registered or deemed to have been registered under the Bengal Co-operative Societies Act, 1940 (Ben. Act XXI of 1940), or a company incorporated under the Indian Companies Act, 1913 (VII of 1913), engaged exclusively in farming and in business, if any. connected directly with such farming, agricultural land in the khas possession of the society or the company on the 1st day of January, 1952, and chosen by the society or the company. Not exceeding in area the number of acres which persons, who were the members of the society or the company on such date, would have been entitled to retain in the aggregate under clause (d), if every such person were an intermediary:

Provided that where any such person retains any land under clause (d), such person shall not be taken into account in calculating the aggregate area of the land which the society or the company may retain.

(k) so much of requisitioned land as the intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses;

Explanation.-- Requisitioned land' means any land which was in the khas possession of the intermediary and which was requisitioned by Government under the provisions of any law for the time being in force or *was occupied by Government in pursuance of rule 49 of the Defence of India Rules and continued to be subject to requisition or occupation on the date mentioned in the notification issued under section 4;*

(l) so much of land in the unauthorised occupation of refugees from East Bengal immediately before the date of vesting as an intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses;

Explanation.-- Refugees from East Bengal' includes those who are displaced persons within the meaning of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951 (West Ben. Act XVI of 1951).

Exception.--Subject to the provisions contained in sub-section (3), nothing in this sub-section] shall entitle an intermediary for any other person] to retain any land comprised in a forest [or any land comprised in any embankment as defined in the Bengal Embankment Act, 1882 (Ben. Act II of 1882), the proper maintenance of which should, in the opinion of the State Government, be taken over by the State Government in the public interest.

(2) An intermediary who is entitled to retain possession of any land under sub-section (1) shall be deemed to hold such land directly under the State from the date of vesting as a tenant, subject to such terms and conditions as may be prescribed and subject to payment of such rent as may be determined under the provisions of this Act and as entered in the record-of-rights finally published under Chapter V except that no rent shall be payable for land referred to in clause (h) or (i):

Provided that if any tank fishery or any land comprised in a tea-garden, orchard, mill, factory or workshop was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by the State Government on the same terms and conditions as immediately before such date subject to such modification therein as the State Government may think fit to make.

(3) In the case of land comprised in a tea-garden, mill, factory or workshop the intermediary, or where the land is held under a lease, the lessee, shall be entitled to retain only so much of such land as in the opinion of the State Government, is required for the tea-garden, mill, factory or workshop, as the case may be, and a person holding under a lease shall, for the purpose of assessment of compensation, be deemed to be an intermediary:

Provided that the State Government may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the intermediary or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this sub-section specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea-garden, mill, factory or workshop, as the case may be.

Explanation I.--The expression "land held under a lease" includes any land held directly under the State under a lease.

Explanation II.--For the removal of doubts, it is hereby declared that the expression "revise any order" mentioned in the proviso to this sub-section, shall, notwithstanding anything contained in any law for the time being in force or in any agreement or in any decree, judgement, decision, award of any court, tribunal or other authority, include revision of an order of retention made under this sub-section, at any time after such order of retention so made, if the intermediary or the lessee, as the case may be, fails to use or ceases to use the whole or any part of the land for the purpose for which it has been retained i.e. for tea-garden, mill, factory or workshop, as the case may be, by him, so as to resume such land as being surplus to his requirement, by the State Government in the manner laid down in this proviso.

Exception.--In the case of land allowed to be retained by an intermediary or lessee in respect of a tea-garden, such land may include any land comprised in a forest if, in the opinion of the State Government, the land comprised in a forest is required for the tea-garden.

(3A) Land which may be retained under clause (k) or clause (1) of sub-section (1) shall, if necessary, be demarcated in such manner as may be prescribed and shall be specified in an order made in this behalf by a Revenue Officer specially empowered for the purpose by the State Government.

(3B) In executing any order for eviction of persons in unauthorised occupation of land in pursuance of proceedings under the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951 (West Ben. Act XVI of 1951), possession shall be given to the intermediary of only so much of such land as he is entitled to retain under clause (1) of sub-section (1) and possession of any land in excess thereof shall be given to the Revenue Officer having jurisdiction over the area in which the land is situated.

(3C) For the purpose of sub-section (3B) the officer or authority executing the order for eviction shall ascertain from the Revenue Officer referred to in sub-section (3A) particulars of the land possession of which may be given to the intermediary.

(3D) Except as otherwise specifically provided in this Act or in the rules made thereunder, the provisions of the Bengal Tenancy Act, 1885 (VIII of 1885) or the Cooch Behar Tenancy Act, 1910 (Cooch Behar Act V of 1910) shall not apply in the case of any land referred to in sub-section (2).

(4) In the case of lands comprised in a forest [or in any embankment, referred in the Exception to sub-section (1)] and held by a person other than an intermediary which vest in the State, such person shall, for the purpose of assessment of compensation, be deemed to be an intermediary.

(5) An intermediary shall exercise his choice for retention of land under sub-section (1) within such time and in such manner as may be prescribed. If no choice is exercised by him during the prescribed period, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the lands as do not exceed the limits specified in clauses (c), (d) and (j) of that sub-section:

Provided that nothing in this sub-section shall require an intermediary to exercise the choice if he has already done so before the date of coming into force of the West Bengal Estates Acquisition (Second Amendment) Act, 1957."

31. If we carefully consider the specific language of Section 6(1), it will be evident that the retention of land as contemplated in Clauses (b) and (c) thereof, which are relevant for the present purpose, is automatic. The specific expression used in the Section is: "notwithstanding anything contained in Sections 4 and 5, an intermediary shall … *be entitled to retain with effect from the date of vesting* …".

32. It is relevant to note that the said provision speaks about the entitlement, as a matter of right, of the intermediary to retain the land covered by the clauses contemplated thereunder, with effect from the date of vesting, without there being any further requirement of any order to be passed conferring such entitlement.

33. Thus, the right to retain automatically arises simultaneously with the vesting of the other properties, to which an exception is carved out by the Clauses (b) and (c) of Section 6(1), without there being any necessity of subsequent permission by any authority or the State Government or from any other quarter. Hence, the genesis of the right of retention is simultaneous with the vesting of the other properties, which do not come within the exception clause of Section 6(1).

34. Sub-section (5) of Section 6 provides that an intermediary shall exercise his choice for retention of land under sub-section (1) within such time and in such manner as may be prescribed. If no choice is exercised by him during the prescribed period, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the lands as do not exceed the limit specified in Clauses (c), (d) and (j) of the said sub-section.

35. Two important features are inbuilt the said sub-section.

36. First, the need for an intermediary to exercise his choice for retention can arise only if the land held by the intermediary exceeds the ceiling limit. The expression "choice", by definition, implies that there are properties beyond the ceiling limit, due to which the intermediary has to choose, in the first place, as to which portion of the excess land to retain and which to be permitted to be vested. In the event the total area of the land held by the intermediary comes within the ceiling limit, the expression "excess" does not operate at all, thus leaving no scope of any option being given or choice being made by the intermediary at all.

37. The second feature is that even if an intermediary does not exercise his choice for retention of his own, it is the incumbent duty of the Revenue Officer under sub-section (5) of Section 6 to allow the intermediary to retain so much of the lands as does not exceed the limits specified in the respective clauses, that too after giving the intermediary an opportunity of being heard.

38. Thus, even when there is excess land held by the intermediary, before the vesting is complete, the Revenue Officer is to give an opportunity of hearing to the intermediary and to pass an order allowing the intermediary to retain the land which is in excess.

39. It is nobody's case that in the present instance, such an exercise was undertaken, either by the intermediary or by the Revenue Officer.

40. Even otherwise, it is an admitted position that the total subject-plot-in-dispute at present is comprised of 14.33 acres of land with structure. The said land, thus, even if taken in its entirety, comes within the ceiling limit of 15 acres as applicable by virtue of Clause (c) of Section 6(1) of the 1953 Act. In respect of the portion of the land where there was an existing structure, there is no ceiling limit and the same could, in any event, be retained by the intermediary in its entirety. The land-in-question, admittedly, is not used for agriculture. A factory is run on a portion of the same, whereas the rest is non-agricultural land in the *khas* possession of the petitioner-company.

41. Even going by Clause (b) of Section 6(1) of the 1953 Act, the land surrounding the factory building and structures owned by the intermediary comes within the purview of "land comprised in or appertaining to" such buildings and structures, hence, attracting the definition under Clause (b) of Section 6(1).

42. If either of the said Clauses are applicable, there does not arise any question of the petitioner exercising any choice of retention. If the land is construed to be covered by Clause (b), the petitioner would be entitled to retain the entire land automatically by operation of Section 6(1) of the 1953 Act, co-genetic with the date of vesting as contemplated under the 1953 Act.

43. Alternatively, even if the land comes within Clause (c) of Section 6(1), the same being comprised of 14.33 acres, comes under the ceiling limit of 15 acres and, as such, in such case as well, there was no necessity for the petitioner/intermediary to exercise any choice of retention under Section 6(5), as in the first place, there was no excess land at all.

44. Section 6(5) of the 1953 Act, if read in conjunction with the proviso to Rule 4A(1) of the 1954 Rules, framed under the said Act, the petitioner/intermediary was not required to exercise such choice at all in the first place.

45. Hence, the retention being automatic, whatever order was passed under Section 6(3), read with Section 6(1)(g) of the 1953 Act, the same was obviously a surplusage and entirely irrelevant, since what the petitioner was already entitled to retain could not be further conferred on the petitioner by any order or by any authority.

46. The entitlement to retain, arising out of the statutory right under Section 6(1), Clauses (b) and (c) of the 1953 Act, was automatic and Section 6(5) of the 1953 Act and/or Rule 4A of the 1954 Rules is not attracted at all.

47. As such, the right of the petitioner/intermediary to retain the subject-plot of 14.33 acres, a portion of which contained structures, was a right vested in the petitioner co-extensive with the commencement of the 1953 Act and could not be curtailed or conferred further.

48. By operation of the 1955 Act, in particular Section 3 of the same, which provides that the provisions of the said Act shall override other laws and have effect notwithstanding anything inconsistent therewith in any other law for the time being in force, the investiture of status vis-à-vis lands came to be governed by the 1955 Act.

49. In the above backdrop, the provision of Section 4B (2) of the 1955 Act is to be considered. The same is set forth below:

> *"**4B(2)** Notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, where an intermediary has been allowed to retain land irrespective of area and classification and with or without any order under clause (g) of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estate Acquisition Act, 1953 (West Bengal Act 1 of 1954) (hereinafter referred to as the retainer), or where such retainer has already transferred such land or any part thereof to any person or institution or company who is in possession of such land or part thereof by an instrument mentioned in sub-section (1) of section 5 of this Act, such retainer or transferee, as the case may be, shall be deemed to hold such land or p[art thereof as lessee directly under the State Government with effect from the date of vesting under the West Bengal Estate Acquisition Act, 1953, or from the date of such transfer as the case may be, for any of the purposes as referred to in the first proviso to section 14Y excluding tea garden, in accordance with such terms and conditions as may be prescribed."*

50. As evident from the language of the above provision, in the event the retention by an intermediary is by virtue of Section 6(3), read with Section 6(1)(g), of the 1953 Act, the concerned intermediary shall be deemed to hold such land or part thereof as a *lessee*, and not as a *raiyat*.

51. In such case, obviously, Section 4C of the said Act would not apply, since the same envisages only a *raiyat* to be entitled to apply for conversion of the character of the land for user for any purpose other than that for which it was being used.

52. It is also to be noted that Section 2(10) of the 1955 Act defines "*raiyat*" to mean a person or institution holding land for any purpose whatsoever.

53. Thus, on a conjoint reading of the provisions of Section 6(1)(b) and (c) of the 1953 Act as well as Section 2(10) of the 1955 Act, the moment an intermediary became entitled to retain a land within Clauses (b) and (c) of Section 6(1) of the 1953 Act, his status partook of the character of a *raiyat* and continued to be so with the promulgation of the 1955 Act.

54. Section 4(1) of the 1953 Act contemplates notifications declaring estates in Districts or parts of Districts as mentioned therein to vest in the State free from encumbrances. Section 5(1) of the said Act stipulates the effect of the notification and provides that upon the due publication of the notification under Section 4, on and from the date of vesting, subject to the provisions of sub-section (3) of Section 6, every non-agricultural tenant holding any land under an intermediary and, until the provisions of Chapter-VI are given effect to, every *raiyat* holding any land under an intermediary, shall hold the same directly under the State, as if the State had been the intermediary, and on the same terms and conditions as immediately before the date of vesting.

55. Again, Chapter-VI of the 1953 Act deals with acquisition of interests of *raiyats* and under-*raiyats*, and was substituted by the Amendment Act of 1955 to the 1953 Act. Section 49 under Chapter-VI provides that the provisions of the said Chapter shall come into force on such date and in such District or part of the District as the State Government may by notification in the Official Gazette appoint and for such purpose different dates may be appointed for different Districts or part of Districts.

56. Again, Section 52, also under Chapter-VI, provides that on issuance of a Section 49 Notification of a particular area, the provisions of Chapter-II, etc., shall apply to *raiyats* and under-*raiyats* as if they were intermediaries and the land held by them were estates and the person holding under a *raiyat* or an under-*raiyat* were a *raiyat* for the purposes of Clauses (c) and (d) of Section 5. Thus, on a composite reading of Section 5(1)(c), read with Sections 49 and 52, the nett effect is that upon a notification under Section 4(1) for a particular District or part of a District being published, the lands comprised in such District or part thereof vests in the State and a non-agricultural tenant or *raiyat* becomes a *raiyat* under the State.

57. Seen in such context, Section 6(1) automatically conferred co-extensive entitlement of retention, simultaneously with the investiture on the State of the rest of the lands, with effect from the date of vesting of the concerned lands, lands which are comprised *inter alia* under Clauses (b) and (c) of Section 6(1) of the 1953 Act.

58. Hence, on the date of enactment of the 1955 Act, the same overrode the provisions of the 1953 Act insofar as there was a conflict between the two and by operation of Section 2(10) of the 1955 Act, a *raiyat* who had retained a land under Section 6(1), Clauses (b) and (c) of the 1953 Act continued to be a *raiyat* under the 1955 Act.

59. As per our previous observations regarding the interplay between the relevant provisions, once the petitioner automatically became entitled to retain the subject-plot of land of 14.33 acres by operation of Clauses (b) and (c) of Section 6(1) of the 1953 Act, any subsequent permission/order passed under Section 6(3), read with Section 6(1)(g) of the 1953 Act, would be rendered superfluous and be considered to be a surplusage.

60. The above ratio is strengthened by the proposition laid down in *Calcutta Mineral Supply Company Private Limited (supra)*[2], where the Hon'ble Supreme Court categorically affirmed the findings of the High Court to the effect that retention of the land under Section 6(1) could not be subjected to Section 6(3) of the 1953 Act, which applies in respect of the land held in excess of the ceiling.

[2] ***State of West Bengal and others v. Calcutta Mineral Supply Company Private Limited and another*, reported at *(2015) 8 SCC 655***

61. In *BRC Construction Company Private Limited (supra)*[3], a co-ordinate Bench of this Court observed, *inter alia*, that as the land of the petitioner was well within the ceiling limit with existing structures, even assuming that Section 6(3) applied to the land, still the State could not resume the land-in-question.

62. In *Ratnagiri Engineering Private Limited (supra)*[4], it was observed in Paragraph No.10 that there is a difference between Clauses (a) to (e) of Section 6(1) of the 1953 Act on the one hand and Clauses (f) and (g) of Section 6(1) on the other. It was further held that while in the case of lands which can be retained under Clauses (a) to (e) of Section 6(1), the retention is automatic from the date of vesting and no order of any authority need be passed for that purpose, in the case of Clauses (f) and (g) of Section 6(1), the retention after the date of vesting is not automatic but it occurs only when the State Government passes an order under Section 6(3) of the 1953 Act. Although the context of the judgment was otherwise, where it was reiterated that once an order was passed under the main part of Section 6(3) of the 1953 Act, the power under the proviso thereto cannot be exercised by taking into consideration subsequent events, the interplay between the provisions of Clauses (f) and (g) on the one hand and Clauses (a) to (e) of Section 6(1) on the other was also highlighted in the said decision.

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[3] ***BRC Construction Company Private Limited and Another v. State of West Bengal and Others*, reported at *2015 SCC OnLine Cal 5146***

[4] ***State of West Bengal and Others v. Ratnagiri Engineering Private Limited and Others, reported at (2009) 4 SCC 453***

63. The proposition laid down in *Ratnagiri Engineering Private Limited (supra)*[5] was also followed in *Juhi Finalease (P) Ltd. (supra)*[6].

64. In the present case as well, in view of our observation that the retention of the land under Section 6(1), Clauses (b) and (c) was automatic, there remained no scope of further conferment or curtailment of such right under Section 6(3) of the said Act.

65. In view of the above discussions, this Court is of the firm opinion that the learned Tribunal as well as the DL & LRO and the Commissioner, Presidency Division erred in law in refusing to grant permission to the petitioner-company to convert the nature of user of the subject-land under Section 4C of the 1955 Act on the premise that the petitioner-company is a lessee and not a *raiyat* in respect of the said land.

66. Accordingly, WPLRT No.126 of 2023 is allowed on contest, thereby setting aside the impugned judgment of the Tribunal dated January 3, 2023 passed by the First Bench of the West Bengal Land Reforms Tribunal in OA No.1635 of 2015 (LRTT) as well as the orders of the Commissioner of the Presidency Division and the order of the DL & LRO which were affirmed by the Tribunal.

67. The petitioner-company is hereby declared to be a *raiyat* within the contemplation of Section 2(10) of the West Bengal Land Reforms Act, 1955, and not a lessee under Section 4B (2) of the said Act, and

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[5] ***State of West Bengal and Others v. Ratnagiri Engineering Private Limited and Others, reported at (2009) 4 SCC 453***

[6] ***Juhi Finalease (P) Ltd. & Anr. v. State of West Bengal & Ors., reported at 2017 SCC OnLine Cal 5043***

accordingly entitled in the capacity of a *raiyat* to apply for conversion of the subject-plot of land of 14.33 acres under Section 4C of the1955 Act, subject to otherwise fulfilling the necessary prerequisites and criteria to obtain such permission to convert.

68. Consequentially, respondent no. 2, that is, the District Land and Land Reforms Officer, North 24-Parganas, is directed to reconsider the conversion application of the petitioner under Section 4C of the 1955 Act, by treating the petitioner to be a *raiyat* competent to maintain the same, and to process and dispose of the same as expeditiously as possible, positively within two (02) months from date.

69. There will be no order as to costs.

70. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all due formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)