

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Supratim Bhattacharya

W.P.L.R.T. 218 of 2025

Sekh Abdul Selim and Anr.
Vs.
The State of West Bengal and Ors.

For the petitioners : Mr. M. A. Samad,
Mr. Taher Ahamad,
Ms. Priyanka Sharma, Advs.

For the respondents : Sk. Md. Galib, Ld. Snr. Govt. Adv.

Heard on : February 9, 2026.

Judgment on : February 9, 2026.

Sabyasachi Bhattacharyya, J.:

1. Affidavit of service filed today be kept on record.
2. The present challenge has been preferred against an order dated November 14, 2025, whereby the West Bengal Land Reforms and Tenancy Tribunal dismissed MA 1066 of 2025, which was an application made by the writ petitioners for review of the earlier order dated July 11, 2025 passed by the Tribunal.
3. The brief background of the case is that the vendor of the present petitioners had taken out an application, upon acquiring the subject property in the year 2008, for mutation in the name of the said vendor. Such mutation was granted. Subsequently, a sanction plan was also obtained by the said vendor from the appropriate authority for raising a construction on the subject plots.
4. Thereafter, when an application for rectification of the recording of the subject plot as “doba” was made by the said vendor of the present writ petitioners, the D.L. & L.R.O. concerned permitted the vendor to apply for conversion, upon which a conversion application was made before the concerned B.L. & L.R.O., giving rise to Conversion Cases No. 1040 and 1041 of 2021.

5. However, the matter went up to the Tribunal and by a judgment dated September 9, 2024 passed in OA 1637 of 2023 (LRTT), the Tribunal, while observing that Rule 166 of the West Bengal Land and Land Reforms Manual, 1991 was not applicable, gave liberty to the vendor of the writ petitioners, nonetheless, to file “appropriate applications before Competent Authority in accordance with law”.
6. In the meantime, the present writ petitioners had purchased the property and applied before the concerned District Land and Land Reforms Officer for regularization of change of character and/or conversion or alteration in the mode of use of the plot of land for the purpose of the residential house erected thereon. The said application was forwarded by the D.L.& L.R.O. to the concerned B.L.& L.R.O. vide memo no. 9297 dated December 18, 2024.
7. Subsequently, the B.L. & L.R.O. having sat tight over the matter, the present writ petitioners took out OA No. 1278 of 2025 before the West Bengal Land Reforms and Tenancy Tribunal, which was dismissed by an order dated July 11, 2025 on the ground that post-facto regularization of conversion of a waterbody is not permissible under Section 4C (6) of the West

Bengal Land Reforms Act, 1955. However, the Tribunal also gave the writ petitioners liberty to file an “appropriate application before the appropriate authority”.

8. The writ petitioners took out a review application of the said order before the Tribunal, which was dismissed by the impugned judgment dated November 14, 2025.
9. Being thus aggrieved, the writ petitioners have preferred the present challenge.
10. Learned counsel for the writ petitioners argues that the land was all along recorded as a “doba” which, according to the writ petitioners, is not a water body. Subsequently, without any rhyme or reason, in the LR Records of Rights, the said subject plot was referred to as a “pukur” which is a water body. It is argued that such amendment in the Records of Rights regarding the nature of the subject plot was unlawful.
11. Secondly, it is argued that while granting mutation and sanction plan, the appropriate authority clearly proceeded on the premise that the land was not a water body. Hence, it is argued that the Tribunal proceeded on a patently erroneous premise in observing that there could not be any post-facto conversion of a water body.

12. Thirdly, it is contended that the Tribunal itself, on several occasions, gave liberty to the writ petitioners, and before that to the writ petitioners' vendor, to approach the appropriate authority with a proper application. Thus, it was recognized by the Tribunal itself that there is an appropriate forum where the application for post-facto regularization and/or original conversion application could be filed.
13. This facet of the matter was overlooked by the learned Tribunal while passing the impugned order.
14. Learned counsel next argues that Rule 166 of the 1991 Manual is squarely applicable to the present case as well.
15. The learned Senior Government Advocate, appearing for the State, contends that the initial order of the Tribunal dated September 9, 2024, whereby OA 1637 of 2023 (LRTT) filed by the writ petitioners was dismissed on the specific recording that Rule 166 of the 1991 Manual is not applicable, was never challenged before any higher forum. Thus, the said order has attained finality and, accordingly, the subsequent original application was also not maintainable on the self-same ground.

16. That apart, it is argued by the learned Senior Government Advocate that the present case is squarely covered by the bar contemplated in Section 4C (6) of the 1955 Act and as such, post-facto conversion cannot be permitted in respect of a water body. It is further argued that be it a “doba” or a “pukur”, the character of the land as a water body cannot be disputed.
17. Upon a careful consideration of the submissions of the parties, we find several facets involved in the matter. The first question which arises for consideration is whether the writ petitioners are debarred by operation of the principle of *res judicata* from raising the self-same issue of applicability of Rule 166 of the 1991 Manual after such contention having been turned down by the judgment dated September 9, 2024 passed in OA 1637 of 2023 (LRTT).
18. However, from a perusal of the said judgment, we find that although the original application of the writ petitioners was dismissed, liberty was given to the writ petitioners to file appropriate applications before the competent authority in accordance with law.
19. The observation, regarding Rule 166 not being applicable, was rendered only on the premise that there is nothing appearing

from the records to show that the conversion regarding the subject plots was made prior to March 24, 1986.

20. As such, it was observed on such footing that there could not have been any applicability of Rule 166 of the 1991 Manual.
21. However, the said observation, on a pure question of law, cannot be said to be binding on the writ petitioners, inasmuch as, by the observations of the Tribunal, it had only adverted to one of the facets of Rule 166, as covered by Clause (i) of Rule 166. However, the four criteria stipulated in Clause (ii) of Rule 166 were not dealt with nor adverted to or adjudicated upon by the said judgment. Thus, the applicability of Clause (ii) of Rule 166 was not covered by the said judgment and the said judgment does not operate as a *res judicata* with regard to the said aspect of the matter.
22. From the factual position as presented before us, we find that pursuant to the liberty granted by the learned Tribunal at the first instance, the writ petitioners have taken out an application for regularization of change of character, conversion or alternation in the mode of use of the plot of land, thereby keeping the window open for the concerned authority i.e. the

B.L. & L.R.O. to consider all three aspects of the matter alternatively.

23. There may be several scenarios applicable to the present case.
24. Clause (ii) of Rule 166 of the 1991 Manual contemplates that if the change in the use of land (a) has occurred in the usual course of nature, or (b) has occurred at a time when such change was not unlawful (prior to March 24, 1986), or (c) has occurred due to development activities of the Government or of a local body in the surrounding area, or (d) due to urbanization in the surrounding area, the applicant should be informed that the change is being noted in the Record-of-Rights, and the said record should be corrected accordingly in due course.
25. Furthermore, (ii) provides that if there was a reasonable cause made behind the change that occurred, the Collector may consider on the merits of the fact if post-facto permission should be granted.
26. Clause (ii) is directly relatable to Clause (i) of Rule 166, which contemplates the aforesaid consideration being in the context of disposal of a petition for conversion.

27. Thus, in view of the pendency of the conversion application before the B.L. & L.R.O. at present at the behest of the writ petitioners, it is the incumbent duty of the B.L. & L.R.O. to consider as to whether any of the situations as covered by Clauses (a) to (d) of Rule 166 (ii) are applicable in the facts and circumstances of the present case. For example, no material is before us to indicate as to whether the change in the use of the land occurred in the usual course of nature or due to urbanization in the surrounding area. Hence, it was premature for the learned Tribunal to close the rights of the writ petitioners, by observing that under Section 4C (6) of the 1955 Act, there was an absolute prohibition on the regularization of the land which is classified as a water body.
28. Although we do not subscribe to the submission of learned counsel for the writ petitioners that a “doba” is not a water body, fact remains that Section 4C (6) of the 1955 Act is circumscribed by Rule 166 of the 1991 Manual. Hence, since the 1991 Manual is a reflection of a policy of the State Government, the Government itself is bound by the same.
29. Accordingly, we find that the observations made by the Tribunal in the impugned judgment, and the judgment of which

review was sought before the Tribunal, cannot debar the writ petitioners to pursue their application for post-facto conversion / regularization before the concerned B.L. & L.R.O. and if so pursued, the said authority is duty-bound to undertake an enquiry as to whether the matter falls within any of the provisions as contemplated in Rule 166 (ii), sub-clauses (a) to (d) of the 1991 Manual.

30. Hence, WPLRT 218 of 2025 is partially allowed, thereby modifying the impugned judgment dated November 14, 2025 to the effect that nothing in the said judgment or the judgment of the Tribunal dated July 11, 2025 passed in OA No. 1278 of 2025 and/or the judgment dated September 9, 2024 passed in OA No. 1637 of 2023 (LRTT) shall preclude the writ petitioners from proceeding with their application for regularization of change of character, conversion or alteration in the mode of user of the subject plot of land dated November 4, 2024, as annexed at Page 83 of the present writ petition, before the concerned B.L.& L.R.O. The concerned B.L. & L.R.O. shall, upon being communicated the present order, undertake an independent enquiry as envisaged under Rule 166 of the 1991 Manual, without being influenced by any of the observations

made by the Tribunal, by giving special weight to the consideration as to whether any of the conditions as mentioned in Clauses (a) to (d) of Rule 166 (ii) of the West Bengal Land and Land Reforms Manual, 1991 are applicable to the present case. In the event it is found that any of such criteria are satisfied, the Collector/ B.L. & L.R.O. may consider on the merits of the case if post-facto permission should be granted.

31. It is expected that the entire exercise, as per the above direction, shall be concluded as expeditiously as possible, preferably within four months from the date of communication of this order to the concerned B.L. & L.R.O.
32. The parties as well as all concerned shall act on the written communication of the learned advocates for the parties, coupled with a server copy of this order, for the purpose of compliance, without insisting upon prior production of a certified copy of this order.
33. There will be no order as to costs.

34. Certified copies, if applied, for be granted urgently to the parties.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)

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(SSS)