

Form No. J(2)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

W.P.L.R.T. 209 of 2025

Sri Sri Dodhimohan Jew
represented by its present Seva Puja Committee
Vs.
The State of West Bengal and others

With

W.P.L.R.T. 220 of 2025

Kalyan Das @ Kalyan Kumar Das
Vs.
The State of West Bengal and others

For the petitioner
In both the matters : Mr. Sounak Bhattacharyya
Ms. Sangeeta Roy
Mr. Chandra Prakash
Ms. Monalisa Maity

For the State
In WPLRT 209 of 2025 : Mr. Sk. Md. Galib
Mr. Abu Siddik Mallick

For the State In WPLRT 220 of 2025	:	Mr. Sk. Md. Galib Mr. Kapil Guha
For the respondent no.4 In WPLRT 209 of 2025 & For the respondent no.9 In WPLRT 220 of 2025	:	Mr. Ayan Banerjee Ms. Debasree Dhamali Ms. Riya Ghosh Ms. Debolina Ghosh
Heard on	:	14.01.2026 & 22.01.2026
Judgment on	:	22.01.2026

Sabyasachi Bhattacharyya, J.:-

1. The present two writ petitions assail the self-same judgment of the West Bengal Land Reforms and Tenancy Tribunal, both filed by one Kalyan Das, alias Kalyan Kumar Das, one in the name of the deity Sri Sri Dodhimohan Jew, claiming himself to be the president of a committee which is allegedly looking after the deity in the capacity of *sebait*, and the other in his individual capacity.
2. The matter arises out of two independent original applications, one filed by the present writ petitioner and the other by the private respondents.

3. The present writ petitioner, in its original application, sought for a direction on the Block Land and Land Reforms Officer to consider the representation of the petitioner to the effect that the petitioner's name ought to be recorded as Raiyat in respect of the disputed plots.
4. On the other hand, the other original application was filed by the private respondents, seeking for a declaration that the subject plots had not vested in the State, for declaration that the recording of their names as Raiyats in respect of the subject plots was correct, and for relief in the nature of injunction to protect their possession.
5. The learned Tribunal, by the impugned judgment, dismissed the original application filed by the writ petitioner on the ground that the writ petitioner does not have any *locus standi* to maintain the same, having no truck with the deity.
6. On the other hand, limited relief was granted in the original application of the private respondents, by holding on the basis of the materials before the Tribunal that the subject property had not vested in the State.
7. Learned counsel for the petitioner contends, by placing reliance on *Sri Iswar Radha Kanta Jew Thakur and others vs. Gopinath Das and others* reported at AIR 1960 Cal 741, a judgment

rendered by a learned Single Judge of this Court, that according to Hindu law, a *sebait* represents the deity and he alone is competent to institute a suit in the name of the deity; in exceptional circumstances, however, where the *sebait* does not, or by his own act deprives himself of the power of representing the deity, a third party is competent to institute a suit in the name of the deity to protect the *debottar* property.

8. It is contended that in the present case, the private respondents have claimed to purchase the subject property, which was dedicated to the deity, from the heirs of one of the original *sebait*s, by altering the character of the property to a secular property.
9. Such transfer, *ex facie*, was barred by law in the absence of any leave being taken from a competent court before such transfer was effected, particularly in the absence of any proof that the transfer was for the benefit of the deity.
10. It is secondly argued that the Arpannama-in-question, by which the property was purportedly dedicated to the deity, was embossed on a stamp paper of Bangladesh, which nation had not come into existence on the date of execution of the Arpannama in the year 1946.

11. That apart, the transfer deed in favour of the private respondents was executed by the heirs of one Nitya Krishna Bhattacharya, whose name does not feature among the heirs of the settlor as appearing from the Arpannama itself.
12. In the Arpannama, it was provided that the settlor Ram Narayan Bhattacharya and his sons, who are named therein, were appointed as the *sebait*s. However, the name of Nitya Krishna does not feature in the said document.
13. Thus, it is argued that the very premise of the alleged title of the private respondents is in considerable doubt.
14. Learned counsel for the writ petitioner next argues that the Tribunal acted beyond its jurisdiction in deciding conclusively that the petitioners do not have any *locus standi* to maintain the representation before the appropriate authority, that is, the BL & LRO, thereby depriving the writ petitioners of two forums.
15. In the event an adjudication was made on the representation by the BL & LRO, there is provision in law for an appeal against the same, against which an original application lies before the Tribunal.
16. Even thereafter, the writ petitioner would have the benefit of the remedy of a further writ petition before a Division Bench of this Court against the order of the Tribunal.

17. Thus, the excess exercise of jurisdiction by the Tribunal is also disputed by the writ petitioner.
18. Learned counsel for the writ petitioner next places reliance on the extracts of records of rights, from where it transpires that although the name of the deity and its settlor are recorded as Raiyats, simultaneously, in respect of the water body belonging to the deity, it has been recorded in Bengali vernacular that the same is for the domestic and bathing activities of the public in general.
19. Such recording, it is submitted, clearly indicates that the public had access to the properties of the deity and, by necessary implication, rights in the usufructs of the said properties.
20. Thus, it is contended that the Tribunal's finding to the extent that the writ petitioner does not have any *locus standi* was erroneous.
21. Learned counsel places reliance on an unreported coordinate Bench judgment of this court in *SAT 195 of 2016 (Sri Bijoy Krishna Mishra and another vs. Chittaranjan Das Bera and others)*, where it was observed that the deity is a perpetual minor and sale of any *debottar* property without obtaining permission from the District Judge concerned is void.

- 22.** It is submitted that the private respondents have failed to establish that any such permission was obtained from the concerned District Judge.
- 23.** Thus, the private respondents did not have *locus standi* to claim any rights in respect of the subject property, which also vitiates the recording of the names of the private respondents in respect of the said property.
- 24.** Learned Senior Government Advocate, appearing for the State, contends that the learned Tribunal was well within its jurisdiction in deciding the question of *locus standi*, since the writ petitioner had to cross such threshold hurdle before an adjudication on merits on its representation by the appropriate authority.
- 25.** With regard to the declaration in the impugned judgment of the Tribunal regarding the subject property not being vested, it is submitted that the same was based on evidence.
- 26.** The other reliefs which the private respondents were not entitled to get, were not granted by the Tribunal.
- 27.** Learned counsel appearing for the private respondents supports the impugned judgment and contends that the private respondents had initially approached the Civil Court for declaration in similar lines as the reliefs sought before the

Tribunal, which suit culminated in a second appeal where liberty was granted to the private respondents to approach the appropriate authority.

- 28.** Consequentially, the Tribunal was approached.
- 29.** It is submitted that the private respondents have no quarrel with the impugned judgment and have not challenged the same before this court.
- 30.** Before entering into the merits of the contentions regarding the alleged rights of the private respondents to the subject property, this court is to deal with two questions:
 - i) Whether the learned Tribunal was justified in deciding the question of *locus standi*, apparently prematurely, instead of just directing the representation of the writ petitioner to be considered by the appropriate authority, including the question of *locus standi*, and
 - ii) Whether the writ petitioner had *locus standi* to maintain the application before the Tribunal and/or to make the representation before the appropriate authority.
- 31.** Taking up such threshold issues at the outset, we find that the sole straw on which the petitioner Kalyan Das premises his arguments is that he is apparently the president of a registered

society, a committee, which is a self-proclaimed *sebait* of the deity-in-question.

- 32.** Another plinth of his submission is a recording in the records of rights to the extent that the pond adjacent to the property of the deity, which also belongs purportedly to the deity, was opened for being used for domestic purposes by the public in general.
- 33.** However, from the recording of the records of rights itself, it is amply clear that the deity, represented by the settlor and one of the *sebait*s Ram Narayan, was recorded as the Raiyat of the subject property.
- 34.** The user by the general public was restricted not to the usufructs of the property but only to specific user of the water body, which is a part of the deity's property, for the limited purpose of day-to-day use for domestic purposes.
- 35.** Such right, as is clear from the extract of the records of right produced before us, is in the nature of an easement right and does not create any title or greater right than that of user in favour of the general public insofar as the *debottar* property is concerned.
- 36.** In any event, the general public has never been recorded in the records-of-rights in the capacity of owner or Raiyat in respect of the said property.

- 37.** That apart, even in terms of the judgment of the learned Single Judge in *Sri Iswar Radha Kanta Jew Thakur (supra)*, cited by the petitioner, anybody can act as next friend of a deity but the law requires that anybody other than a *sebait* instituting a suit in the name of the deity must be appointed as such by the order of the court.
- 38.** In the present case, there is nothing on record to indicate that any such appointment was made by any competent court in favour of the petitioner Kalyan Das or the committee presided over by the said writ petitioner, permitting either the said Kalyan Das or the committee to represent the deity as next friend, in the capacity of its *sebait* or otherwise.
- 39.** In paragraph no.17 of *Sri Iswar Radha Kanta (supra)*, it has been further observed that according to Hindu law, it is the *sebait* who represents the deity and he alone is competent to institute a suit in the name of the deity.
- 40.** Only in exceptional circumstances, where the *sebait* does not or by his own act, deprives himself of the power of representing the deity, a third party is competent to institute a suit in the name of the deity to protect the *debottar* property.
- 41.** In the present case, there is nothing on record to indicate that the *sebait*s deprived themselves of the power of representing the

deity, to entitle any third party to act as next friend of the deity, a perpetual minor in the eye of law.

42. Even otherwise, by its very nature, as evidenced from the materials-on-record, it is clear that the property was in the nature of a private *debottar* property and not a public *debottar* property, which could confer any right on the general public at large, let alone a particular committee formed by certain specific set of persons who have utterly failed to prove their *locus standi*, to represent the deity in the present case.
43. In view of the above, since the writ petitioner fails to cross the threshold hurdle of establishing his *locus standi*, this court is unable to permit the petitioner's challenge on the merits of the transfer in favour of the private respondents.
44. Unless the initial window of *locus standi* is crossed by the writ petitioner, it is beyond the scope of the writ court or of the Tribunal to adjudicate on the merits of the other questions raised by the petitioner.
45. Insofar as the other question is concerned, regarding the veracity or authenticity of the Arpananma and/or the title of the private respondents, even in that regard, we fail to understand as to how the petitioner Kalyan Das, or the committee presided

over by him, acquired any right to represent the deity or has established any interest in respect of the deity.

- 46.** In any event, we do not want to dwell much on the said issue, within the limited constraints of a writ court in a matter arising out of an adjudication by the Land Reforms Tribunal within the limited ambit of the specified acts as enumerated in the West Bengal Land and Land Reforms Tenancy Tribunal Act.
- 47.** It would be entirely within the domain of a competent civil court to decide such issues and as such, we observe that our findings, even if any, on the merits of the title of the private respondents are only of a tentative and *prima facie* nature.
- 48.** The last question which remains to be decided is whether the Tribunal exceeded its jurisdiction in deciding the question of *locus standi* of the writ petitioner by itself, without giving the writ petitioner an opportunity to present its representation before the appropriate authority, that is, the concerned BL & LRO.
- 49.** However, we concur with the conclusion of the Tribunal on such count as well.
- 50.** It is well within the domain of a Tribunal to assess whether a representation, regarding which direction for adjudication is sought, is maintainable in the first place.

- 51.** The said exercise ought to be done at least at a *prima facie* level by the Tribunal to ascertain as to whether any direction on the concerned authority to consider a representation would be a futile exercise.
- 52.** Viewed from such perspective, the learned Tribunal was justified in deciding the lack of *locus standi* of the petitioner Kalyan Das to represent the deity and consequentially to seek correction of the records of right on the strength of such representation.
- 53.** Instead of generating a futile exercise by directing the representation to be considered at the behest of a person who has no *locus standi*, thereby giving rise to a new round of litigation unnecessarily, the learned Tribunal was justified in nipping the issue at the bud, since the claim of *locus standi* of the petitioner Kalyan Das is frivolous even on the basis of the materials before us.
- 54.** Thus, we do not find any excessive exercise of jurisdiction or illegality on the part of the Tribunal in passing the impugned judgment.
- 55.** Accordingly, WPLRT 209 of 2025 and WPLRT 220 of 2025 are dismissed on contest without any order as to costs, thereby affirming the impugned judgment of the Third Bench, West

Bengal Land Reforms and Tenancy Tribunal in O.A. No.778 of 2019 and O.A. No. 1012 of 2021 (LRTT).

- 56.** Urgent photostat copies of this judgment, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)

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