

JPD-25
Ct No.07
10.06.2026
(SSS)

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CO 13 of 2026

Lalan Thakur and Ors.
Vs.
Kishor Sahani and Anr.

Mr. Kunaljit Bhattacharya,
Mr. Haider Ali,
Mr. Satyam Sarkar,
Mr. Mrinmoy Chandra Laskar, Advs.
.... For the petitioners.

Mr. Momenur Rahman,
Mr. Bikash Singha,
Mr. Shambhu Sarkar,
Mr. Krishna Barman, Advs.
.....For the Opposite Parties.

1. The present revisional application has been preferred by the defendants in a suit for permanent injunction, against an order whereby the defendants/petitioners' application for dismissal of the suit was turned down.
2. Learned counsel appearing for the petitioners submits that the premise of the claim of the plaintiffs, as depicted in the plaint, is that the plaintiffs/opposite parties are bargadars in respect of the suit property. The said proposition having been disputed by the defendants/petitioners, the matter was sent to the appropriate authority i.e. the B.L & L.R.O. by the Civil Court under Section 21(3) of the West Bengal Land Reforms Act, 1955

for a decision on the question, whether the plaintiffs/opposite parties are bargadars in respect of the suit property.

3. Subsequently, a report was sent by the B.L & L.R.O. to the Civil Court upon such decision having been taken. From the said report, it would transpire that although the name of the plaintiffs/opposite parties' predecessor was recorded as a bargadar in the Records of Rights, the names of the plaintiffs/opposite parties did not find place therein. Thus, it was contended by the defendants/petitioners before the Trial Court that the suit ought to be dismissed, since the bargadarship of the plaintiffs, on the strength of which the suit has been filed, has been negated by the B.L & L.R.O.
4. Learned counsel places reliance on Section 21(4) of the West Bengal Land Reforms Act, 1955, which provides that after communication of the decision of the concerned officer to the referring court, such decision shall not be altered or revised except in an appeal under Section 19 of the 1955 Act.
5. Placing reliance on such provision, it is argued by the petitioners that even if the plaintiffs/opposite parties have any grievance with the decision of the B.L & L.R.O. under Section 21(3) of the 1955 Act, it was beyond the jurisdiction of the Civil Court to enter into or decide such objection. The only

remedy before the plaintiffs/opposite parties was to prefer an appeal under Section 19 of the 1955 Act, which, having not been preferred, the suit ought to have been dismissed outright.

6. Learned counsel appearing for the plaintiffs/opposite parties places before the Court the purported report dated July 28, 2025 of the Block Land and Land Reforms Officer, Mal.
7. It is argued that the said report, as the name suggests, is barely a “report” and not a “decision” within the contemplation of Section 21(4) of the 1955 Act.
8. Learned counsel argues that in terms of the said provision, on a reference being made under subsection (3) of Section 21, the concerned officer is to personally make such enquiry as may be prescribed and to arrive at a decision after giving all parties to the suit, case, appeal or other proceedings an opportunity of being heard and only then to communicate such decision in the prescribed manner to the court which had made the reference.
9. Thus, it is argued that in the absence of any decision as such having been taken under Section 21(4), it would be premature for the Civil Court even to entertain the application for dismissal of the suit.
10. Heard learned counsel for the parties.

11. As per the provisions of Section 21(4), upon a reference being made under sub-section (3) of Section 21, the concerned officer or authority is not only required to make a personal enquiry as per the prescribed procedure but to arrive at a "*decision*" after giving all parties an opportunity of being heard. Only thereafter, such decision is to be communicated in the prescribed manner to the referring court.
12. A bare perusal of the so-called report dated July 28, 2025 authored by the concerned B.L & L.R.O. upon the matter being referred to him, as annexed at page 59 of the revisional application, it is evident that the same merely recites the contents of the Records of Rights and does not even pretend to be any adjudication as contemplated under sub-sections (3) and (4) of Section 21 of the 1955 Act. The exercise which is to be conducted by the referee authority under Section 21, sub-sections (3) and (4) is not limited to recitation of the contents of the Records of Rights but an independent adjudication, upon giving an opportunity of hearing to all parties and upon advertng to the materials on record, as to whether the person concerned is a bargadar or not. Thus, in the present case, in the absence of any adjudication whatsoever on the question as to whether the plaintiffs/opposite parties are

bargadars in respect of the suit property, the reference under Section 21(3) made by the Civil Court has not yet been answered by the concerned officer (B.L & L.R.O.).

13. Hence, it was premature for the defendants/petitioners to apply for dismissal of the suit before the Civil Court.

14. Even otherwise, if such an adjudication is made either way, it would be for the Civil Court to frame an issue on the same, if necessary a preliminary issue on maintainability of the suit, and/or to consider whether the plaint should be rejected. The application of the petitioners without any appropriate caption could not have been entertained either way.

15. Be that as it may, since the B.L & L.R.O. has not adjudicated the matter within the contemplation of Sections 21(3) and (4) of the 1955 Act, the matter is required to be remitted back to the said B.L & L.R.O. for completion of the adjudicatory process. In the absence of any decision being arrived at by the B.L & L.R.O. within the contemplation of Section 21(4), there cannot arise any occasion for the plaintiffs/opposite parties to prefer an appeal under Section 19 of the said Act.

16. Accordingly, CO No. 13 of 2026 is disposed of on contest by modifying the impugned order, bearing Order No. 19 dated December 18, 2025 passed by

the learned Civil Judge, Junior Division, Second Court at Jalpaiguri in Title Suit No. 81 of 2023, by directing the learned Trial Judge to remit the matter back to the Block Land and Land Reforms Officer, Mal, Jalpaiguri within a week from communication of this order to the learned Trial Judge for the purpose of completing the adjudicatory process as contemplated in Section 21, sub-sections (3) and (4) of the 1955 Act, as expeditiously as possible, upon giving adequate opportunity of hearing to all concerned in terms of Section 21(4) of the 1955 Act and to take a reasoned decision in writing after adverting to all the legal and factual aspects of the matter.

17. It is expected that upon such remission to the concerned Block Land and Land Reforms Officer, Mal, Jalpaiguri, the said officer shall conclude the adjudication at the earliest, preferably within four months of the remission by the Trial Court to the said officer.
18. It is made clear that the merits of the said adjudication have not been entered into at all by this Court and it will be open to the Block Land and Land Reforms Officer, Mal, Jalpaiguri to decide the issue independently in accordance with law.
19. Needless to say, the Block Land and Land Reforms Officer, Mal, Jalpaiguri, while giving an

opportunity of hearing to all concerned, shall also give adequate opportunity to the parties to produce and to rely on relevant documents, if any.

20. There will be no order as to costs.

21. Urgent certified copies of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)