

HIGH COURT FORM No. (J) 2.
HEADING OF JUDGMENT IN APPEAL

District Nadia.

In the Court of Additional District Judge, Fast Track Court, Ranaghat, Nadia.

Present:- Sri. Gautam Kumar Nag
Additional District Judge, FTC,
Ranaghat, Nadia.
JO Code: WB10033

Monday, the 22nd day of June, 2026.

Misc Appeal no. 03 of 2021
CIS no: 13/2023
CNR No: WBND12-001044-2023

Gouranga Das Appellant
Versus

Bikash Biswas Respondent

This appeal coming on for final hearing on 05/06/2026 in the presence of

Sri. Shambhu Adhikary Advocate for Appellant

Sri. Amlan Das Advocate for Respondent

and having stood for consideration to this day, the Court delivered the following judgment.

The present appeal emanates from the final order being no. 45 dt. 06/01/2021 passed in Misc (Pre-emption) case no. 14/14 by Ld. Civil Judge (Jr. Div), 2nd Court, Ranaghat, Nadia.

J U D G M E N T

1) In this Misc Appeal the final order being no. 45 dt. 06/01/2021 passed in Misc (Pre-emption) case no. 14/14 by Ld. Civil Judge (Jr. Div), 2nd Court, Ranaghat, Nadia has been assailed by the appellant.

2) The fact of such institution of this appeal thereby challenging the final order being no. 45 dt. 06/01/2021 of Ld. Trial Court is the appellant, being petitioner in the Misc (Pre-emption) case no. 14/14 u/s 8 of the WBLR Act where by the Ld. Trial Court passed order – “that the petition filed by the opposite party dt. 26.06.2019 is hereby allowed and that the instant Misc. Pre emption case be and the same is hereby dismissed”.

3) Being aggrieved by and dissatisfied with the final order the petitioner of that instant misc pre-emption filed this present appeal.

4) The fact of the case in brief is that the present appellant being the petitioner had filed the pre-emption case on the ground that he is the adjoining land owner of the suit plot u/s 8 of the West Bengal Land Reforms Act wherein he had claimed that the opposite party had purchased the suit plot in the year 2012 by virtue of a deed of sale being no. 2583 dt. 18.05.2012 and the Misc. Case had been filed for pre-emption on 08.04.2014 by the petitioner.

Points for considerations:

5) The point of consideration is whether the instant misc pre-emption case is maintainable or not?

Findings of the Ld. Trial Court:

6) The Ld. Trial Judge had dismissed the instant case by passing order “that the petition filed by the opposite party dt. 26.06.2019 is hereby allowed and that the instant Misc. Pre-emption case be and the same is hereby dismissed”.

Grounds for memo of appeal:

7) The the Ld. Trial Judge hold that the Misc Pre-emption case no. 14 of 2014 was not maintainable as the petitioner had not filed the case within the statutory period of four months from the date of such transfer for pre-emption and moreover the provision of section 5 of the Limitation Act is not applicable in the case filed u/s 8 of WBLR Act and hence the instant pre-emption case is not maintainable and thereby dismissed the instant case.

Points for consideration:

8) This Court is now to consider whether or not the aforesaid findings of the Ld. Court below suffered from any material irregularity, illegality or miscarriage of justice.

Argument put forward by the respective parties:

9) The Ld. Lawyer for the appellant at the time of argument submitted that the A schedule of the property is owned and possessed by the petitioner/appellant with proper right and title and the petitioner is thus adjoining land owner of the opposite party with the suit plot as mentioned in B schedule property which had been purchased by O.P. and the O.P. had purchased B and C schedule from Padma Rani Pal in respect of B schedule and Biswajit Pal and others in respect of C schedule property by way of registered deed being no. 2583/2012 dt. 18.05.2012 and this O.P./Respondent had purchased portion of share from the said suit plot and the O.P. had not served any notice to the adjoining land owners or others before purchase and so the petitioner/appellant

had got no information of such purchase and he came to know about such transfer by obtaining certified copy in the year 2014 and further submitted that the consideration money which had been mentioned in the said deed was Rs. 2,08,260/- only but the actual price of the suit plot is nothing more than Rs. 30,000/- and hence the petitioner/appellant had deposited Rs. 33,000/- only and hence prayed before this court to pass necessary orders to set aside the order of Ld. Trial court.

10) The Ld. Lawyer for the respondent strongly objected to this stating that as long as the petitioner had not deposited the total consideration amount along with statutory compensation the petitioner had not acquired any right for pre-emption and there is statutory period to file the case within four months from the date of such transfer praying for pre-emption but in this present case the case had been filed after lapse of almost two years and the limitation act does not have any scope in case of pre-emption and hence prayed before this court to dismiss the prayer of the appellant.

DECISION WITH REASONS

11) This is a case u/s 8 of WBLR Act. Section 8 of WBLR Act states that - Right of purchase by co-sharer or contiguous tenant - If a portion or share of a holding of raiyat is transferred to any person other than a co-sharer in the holding, 1 [the bargadar in the holding may, within three months of the date of such transfer, or] any co-sharer raiyat of the holding may, within three months of the service of the notice given under sub-section (5) of section 5, or any raiyat possessing land adjoining such holding may, within four months of the date of such transfer, apply to the 2 [Munsif having territorial jurisdiction], for transfer of the said portion or share of the holding to him, subject to the limit mentioned in 3[section 14-

M] on deposit of the consideration money together with a further sum of ten per cent, of that amount.

12) In this present case it appears that the appellant / petitioner had filed the case for pre-emption in the year 2014 when the actual transfer took place in the year 2012 and it also appears that according to section 8 of WBLR Act it clearly states that any raiyat possessing land adjoining such holding may, within four months of the date of such transfer has to file the case and in this present case the petitioner being holding land as adjoining owner failed to file the case within the statutory period of 4 month. Under the circumstances whether limitation laws is applicable in this case or not.

13) Section 8 of the Act deals with the right of pre-emption of certain categories of persons named therein. Section 9(6) of the Act gives a right to an aggrieved party to prefer an appeal against an order passed u/s 8 of the Act before the District Judge, having jurisdiction over the area in which the land is situated, within one month from the date of passing such an order. Rule 8 of the West Bengal Land Reforms Rules lays down the procedure for appeals and fees to be paid under sub-sec (6) of section 9 of the Act. Section 5 of the Limitation Act has not been expressly made applicable either in section 9 of the Act or in Rule 8 of the Rules. Therefore, on a plain reading of section 9 of the Act and Rule 8 of the West Bengal Land Reforms Rules, it is clear that the provisions of section 5 of the Limitation Act have neither been expressly included nor expressly excluded in the said Act and the Rule.

14) It would be important to notice that section 5 of the Limitation Act has been expressly made applicable to an appeal filed under section 14(H) of the Act. On a plain reading of section 14(O) of the Act, it is clear that ordinarily, the period of limitation

for presenting an appeal is 30 days from the date of the order u/s 14(N) of the Act and the appellate authority may extend the time to file such appeal if sufficient cause is shown. It is true that section 5 of the Limitation Act has not, in so many words, been made applicable in section 14(O) of the Act but from the words used by the legislature in that section, it cannot be doubted that in fact, section 5 of the Limitation Act has been expressly made applicable to an appeal filed u/s 14(O) of the Act.

15) From the discussions made herein-above and considering the scheme of the Act and particularly considering the fact that section 5 of the Limitation Act, has been made expressly applicable to some of the provisions of the Act by the legislature but the West Bengal Land Reforms Act is a self-contained and a complete Code and therefore Section 5 of the Limitation Act is not applicable to an "application" under Section 8 of the Act. In **Sib Nath Chatterjee vs Tulsidas Chatterjee & Ors., (Civil Appeal No(s). 4317/2026)** our Apex Court ruled that a contiguous raiyat's (neighboring landowner) claim of pre-emption under Section 8(1) of the West Bengal Land Reforms Act, 1955 is strictly time-barred if filed beyond the statutory four-month period.

16) In view of the observations this court is of the view relying on the principles that Section 5 of the Limitation Act is not applicable to an "application" or to a proceeding under Section 8 of the Act as the application of Section 5 of the Limitation Act, by necessary implication has been "expressly excluded" to an "application" or to a proceeding under Section 8 of the Act.

17) In this present case the petitioner had filed the case without depositing the consideration money as mentioned in the deed of sale along with the statutory compensation.

18) Now section 9 of WBLR Act states that - On the deposit mentioned in sub-section (1) of section 8 being made, the Munsif shall give notice of the application to the transferee, and shall also cause a notice to be affixed on the land for the information of persons interested. On such notice being served, the transferee or any person interested may appear within the time specified in the notice and prove the consideration money paid for the transfer and other sums, if any, properly paid by him in respect of the land including any sum paid for annulling encumbrances created prior to the date of transfer, and rent or revenue, cesses or taxes for any period. The Munsif may after such enquiry as he considers necessary direct the applicant to deposit such further sum, if any, within the time specified by him and on such sum being deposited, he shall make an order that the amount of the consideration money together with such other sums as are proved to have been paid by the transferee or the person interested plus ten per cent of the consideration money be paid to the transferee or the person interested out of the applicant. The Munsif shall then make a further order that the portion or share of the holding be transferred to the applicant and on such order being made, the portion or share of the holding shall vest in the applicant.

19) So, section 9 of WBLR Act will come into play when section 8 of WBLR Act had been complied. Now, comes the question of deposit of the consideration money. In this context, I would like to say that the provision under Section 8 of the Act clearly stipulates that the persons coming in any of the category, as described therein, may apply within the stipulated period, as also prescribed in the section for each category, to the Munsif having territorial jurisdiction for transfer of the said portion or share of the plot of land to him, subject to the limit mentioned in (Section 14M) on deposit of the consideration money together with a further sum of 10 per cent of that amount. Section 9 of the Act also makes it clear

that on the deposit mentioned in sub-section(1) of Section 8 being made, the Munsif shall then give notice of the application of preemption and proceed further, including the determination of the amount of consideration money, actually paid, and other sums in respect of the suit land.

20) On perusal of the citation **Barasat Eye Hospital and Ors. vs Kaustab Mondal, (2019) 19 SCC 767** it appears before this court that petitioner did not pay the entire consideration money with 10 %. The right to pre - emption will arise when section 8 of WBLR has been fully complied and then only section 9 of WBLR will come into play.

21) Now turning to Section 9 of the said Act that an inquiry into the stated consideration is envisaged. However, the commencement of sub-section (1) of Section 9 is with “on the deposit mentioned in sub-section (1) of section 8 being” and hence for anything further to happen under Section 9 of the said Act, the deposit as envisaged under Section 8 of the said Act has to be made. It is only then that the remaining portion of Section 9 of the said Act would come into play.

22) The appellant/ petitioner had not deposited the amount as per section 8 of WBLR Act at all. The law as it now stands is that deposit of the entire consideration money with additional 10% of the consideration money along with an application of preemption is a statutory and mandatory requirement, which is a pre - condition before any further enquiry as contemplated under Section 9 of the Act can be done in respect of the prayer for preemption.

23) That being so, I find that the appellant has lost his right to claim preemption in respect of the impugned transfer of the suit property, without following the statutory requirements of law.

24) With the above discussions, I am of the considered view that the appellant is not entitled to claim preemption as co-sharer and an adjoining landowner.

In the result the Misc appeal fails.

C.F. is paid correct.

Hence

O R D E R E D

That the instant Misc Appeal be and the same is dismissed on contest against the respondent with any order as to costs.

That the order being no. 45 dt. 06/1/2021 passed in Misc (Pre-emption) case no. 14/14 by Ld. Civil Judge (Jr. Div), 2nd Court, Ranaghat, Nadia is hereby affirmed.

Let the copy of this judgment along with OCR be sent to Ld. Civil Judge (Jr. Div), 2nd Court, Ranaghat, Nadia for information and necessary action.

Typed and corrected by me:

ADJ, FTC,
Ranaghat, Nadia.
JO Code: WB10033