

10.12.2025
Court No.11
Item Nos.21-26
KCP

RVW 2408 of 2007
With
IA No.: CAN 1 of 2007 (Old No.: CAN 9250 of 2007)

The State of West Bengal & Others
– Versus –
Sri Rajendra Agarwalla & Others
With
CPAN 661 of 2007
Sumitra Devi Agarwalla & ors.
– Versus –
Sukumar Singha Ray
in
WPLRT 1115 of 2001
And
RVW 2407 of 2007
With
IA No.: CAN 1 of 2007 (Old No.: CAN 9254 of 2007)

The State of West Bengal & Others
– Versus –
Lakshmi Narayan Agarwal
With
CPAN 660 of 2007
Sri Rajendra Agarwal & Others
– Versus –
Sukumar Singha Ray & Others
in
WPLRT 1420 of 2001
And
RVW 2409 of 2007
With
IA No.: CAN 1 of 2007 (Old No.: CAN 9255 of 2007)

The State of West Bengal & Others
– Versus –
Sumitra Devi Agarwal
With
CPAN 659 of 2007
Sumitra Devi Agarwal
– Versus –
Sukumar Singha Ray & Others
in
WPLRT 1419 of 2001

Mr. Pradip Kumar Roy, Sr. Adv.
Ms. Sumedha Mukhowpadhyay.

... for the writ petitioners

Mr. Chandi Charan De, Ld.A.G.P.,

Mr. Anirban Sarkar.

....for the review applicants
/State respondents

1. Aggrieved by the orders dated 23.08.2006 passed in the respective writ petitions being WPLRT 1115 of 2001 (Rajendra Agarwalla & Others), WPLRT 1419 of 2001 (Sumitra Devi Agarwal) of and WPLRT 1420 (Lakshmi Narayan Agarwal) of 2001 (Lakshmi Narayan Agarwal), the above review applications have been preferred by the State and its functionaries.

2. The cases have a chequered history. One Rajendra Agarwalla and others preferred a writ petition claiming to be the owners of land measuring 4.5 acres in Plot No.6174, Khatian No.5885, J.L. No.164 of Mouza – Kalna, District –Burdwan (hereinafter referred to as the said plot) by registered deed of exchange dated 12.03.1991 and challenging an order of vesting passed in a proceeding under Section 6(1) read with Section 6(5) of the West Bengal Estate Acquisition Act, 1953 (hereinafter referred to as the 1953 Act). The same was transferred to the learned Tribunal and re-numbered as T.A. 230 of 2001. Upon contesting hearing, the said application was disposed of by an order dated 13.06.2001 with liberty to the applicants to apply for

long term lease. Same orders were passed in an application filed by one Smt. Sumitra Devi Agarwal claiming to be the owner of land measuring one cottah in the said plot on the strength of a deed of conveyance dated 17.10.1994 and in an application preferred by one Lakshmi Narayan Agarwal claiming to be the owner of one cottah, 10 chittacks and 9 cottah 10 chittacks of said plot on the strength of two registered deeds of conveyance dated 12.03.1991 and 13.03.1991. Aggrieved by the said orders, three writ petitions were preferred which were disposed of by three orders dated 23.08.2006 passed in the respective writ petitions directing the competent authority to record the names of the petitioners in the record of rights. The Special Leave Petitions (hereinafter referred to as SLP) preferred by the State and its functionaries against the same were dismissed on 19.02.2007. Thereafter the review applications were affirmed on 15.10.2007 and were filed along with condonation of delay applications. In the midst thereof, the writ petitioners affirmed three contempt applications on 04.06.2007 alleging violation of the said orders.

3. Records would further reveal that a co-ordinate bench of this Court by an order dated 03.01.2019 directed that *'the possession of the disputed lands by the writ petitioner is not disputed;*

hence such possession shall not be disturbed till the application for review is disposed of' and adjourned the hearing of the contempt applications and the review applications *sine die* with liberty to the parties to mention the same once the reference made in *Khoday Distilleries Limited vs Mahadeswara S.S. Limited* reported in (2012) 12 SCC 291 is answered. Thereafter by an order dated 08.10.2024 the substitution application filed in the contempt application being CPAN 661 of 2007 for substitution of the heirs of Laxmi Narayan Agarwal was allowed. Thereafter as the reference made in *Khoday Distilleries Limited (supra)* was answered, the contempt applications being CPAN 659 of 2007, CPAN 660 of 2007 CPAN 661 of 2007 along with the review applications being RVW 2409 of 2007, RVW 2408 of 2007 and RVW 2407 were taken up for hearing.

4. As we have invited the learned advocate appearing for the respective parties to advance their arguments on the merits of the matter, the delay in filing the review applications is condoned and the condonation applications are disposed of.

5. Mr. Dey, learned senior government advocate primarily argues that the original records pertaining to the plot of land in question were not properly examined at the time of hearing of the writ

petitions and the Court overlooked the noting on the records which clearly *'indicates that the suit land stood vested to the State of West Bengal with effect from 15.04.1955 and it is not at all a retained land'*. The opening of the khanda khatian no. 5855 involving the said plot including others stood impliedly merged with the original intermediary khatian no. 2122 and it obtained the same and similar fate as that of the said intermediary khatian no. 2122 as if no khanda khatian no. 5855 was at all opened and consequently same and similar noting was subscribed on the body of the said khanda khatian no. 5855 and it ceased to exist anymore and thereby the land in question stood vested to the State with effect from 15.04.1955.

6. He contends that the civil suit being T.S. 210 of 1995 filed by one Smt. Rekha Mondal & Others as referred to in the writ petitions was initially decreed on 31.03.2001. The said decree was challenged by the State in a Title Appeal which was allowed remanding the suit before the trial Court and the said suit was ultimately rejected on 31.07.2006 but such fact was suppressed by the writ petitioners at the time of final hearing of the writ petitions subsequent thereto on 23.08.2006. Such suppression smacks of *mala fide* and maligns

the entire proceeding and renders the order passed to be a nullity.

7. Mr. Roy, learned advocate appearing for the writ petitioners/respondents submits that it is not a case that even after exercise of due diligence, the order passed in the Title Appeal could not be brought to the notice of the writ Court by the applicants at the time of hearing. It has been stated in the review applications that the applicants came to learn about the fate of the said appeal upon receipt of a letter dated 20.12.2006 from the learned government pleader. However, the said suit is still pending as would be explicit from the information slip annexed in the affidavit-in-opposition.

8. He further argues that the learned Tribunal in the orders impugned granted liberty to the writ petitioners to approach the State for a long-term lease being satisfied about their existence and continued possession over the plot in question and without granting any credence to pendency of any suit. In the other alleged vested plots, the State had already recorded the names of the purchasers but surprisingly a different yardstick has been applied in case of the writ petitioners.

9. He argues that there is no patent error apparent on the face of the records and the parameters prescribed for review do not postulate a

rehearing of the dispute because a party has not highlighted all the aspects of the case or could perhaps argued them more forcefully and/or cited binding precedents to the Court.

10. Heard the learned advocates appearing for the respective parties and considered the materials on record.

11. The review applicants are primarily urging that the finding arrived at by the writ Court upon perusal of the original records that *‘the subject plots of land being plot No. 6174 under Khatian No. 5855 of Mouza Kalna, District Burdwan, have specifically stated that the said plot of lands were allowed to retain by the intermediary and, thereafter, it also appears that the petitioners purchased the said plots’* needs to be reversed and substituted now by this Court upon perusal of the records afresh. Such an argument renders the review to be an appeal in disguise. Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors. The review proceedings are not by way of an appeal and the review Court does not sit in appeal over its own order.

12. The law casts a heavy burden on the persons alleging fraud to prove the same on the basis of facts. There is no existence of any material to suggest that the writ petitioners had misled the

Court by stating erroneous facts. The writ petitions were preferred in the month of December, 2001 stating that the suit had been decreed on 31.03.2001. The fact of disposal of any appeal by State upon setting aside the said decree was not disclosed by the State at the time of disposal of the writ petitions. Points which were urged and points which could have been urged but have not actually been urged in course of a proceeding before a Court of law that proceeds to deal with the issues before it and decides the same on merits, cannot be urged once again. Acceptance of such argument would be contrary to the doctrine of finality of decisions.

13. The power of review may be exercised when some mistake or error apparent on the face of record is founded. But, error on the face of record must be such an error which must strike on mere looking at the record and would not require any long-drawn process of reasoning on the point where there may be conceivable two opinions. The arguments advanced by Mr. De and the grounds taken in the review applications also do not establish any error whatsoever on the face of the record nor the applications for review had been preferred upon discovery of a new and important matter or evidence which was not available to the applicants despite the exercise of due diligence.

14. For the reasons stated above, no interference is called for and the review applications along with the connected applications are dismissed.

Re : CPAN 661 of 200
CPAN 660 of 2007
&
CPAN 659 of 2007

15. Mr. De, learned advocate appearing for the applicants in the respective contempt applications, submits that new incumbents have joined the post of the alleged contemnors and he prays for leave to implead the new incumbents.

16. Such prayer is considered and allowed.

17. The learned advocate on record of the writ petitioners are granted leave to make necessary correction in the cause title of the contempt applications.

18. The writ petitioners are directed to serve copies of the contempt applications upon all the alleged contemnors intimating that the matters will be taken up for further consideration on 30th January, 2026 and to file an affidavit-of-service on the returnable date.

19. List the contempt applications for further consideration in the daily supplementary list of this Court on 30th January, 2026.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)