

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 9345/2013

GOUR @ GOBINDA CHANDRA DAS & ORS.

Appellant(s)

VERSUS

PUNIT SINGH (D) BY LRS. & ORS.

Respondent(s)

O R D E R

We have heard learned counsel for the appellants.

Despite service, no one is present on behalf of the respondents.

By the impugned judgment and order dated 11.04.2007 passed in C.O. No. 2053/2005 with CO No. 3460 of 2006, it was held by the learned Single Judge of the Calcutta High Court that the property in question does not come within the scope and ambit of Section 8 of West Bengal Land Reforms Act, 1955 more particularly, since it is *bastu* land in an urban area.

Learned counsel for the appellants has brought to our notice three decisions of the Calcutta High Court.

In *Sri Ranjit Kumar Mondal v. Sri Pankoj Mukhopadhyay & Ors.* being C.O. No. 3502 of 2014 decided on 23.12.2015, it was held that the decision rendered in the judgment and order impugned before us does not lay down any law of any binding effect and is *per incuriam*.

Similarly, in *Sri Ramala Chowdhury & Anr. v. Sri Suman Ghosh* in C.O. No. 1801/2008 with CAN 553/2009 decided on 19.02.2010, it was held that the impugned judgment and order does not lay down any

law of any binding effect and is *per incuriam*.

Finally, in *Sanjay Halder & Ors. v. Budhan Rajak* in CO 2979 of 2015 decided on 30.03.2016, it was held by the learned Single Judge that *bastu* land is under the coverage of land as defined under Section 8 of the West Bengal Land Reforms Act, 1955. Therefore, an application for pre-emption in respect of *bastu* land is maintainable.

In view of the conflict of views of the learned Single Judges, the judgment and order impugned in this appeal needs to be set aside and reconsidered by the Calcutta High Court so that there is some finality to the issue whether an application for pre-emption is maintainable in respect of *bastu* land in urban area under the provisions of Section 8 of the West Bengal Land Reforms Act, 1955.

Accordingly, the impugned judgment and order is set aside and the matter is remanded to the Calcutta High Court for consideration of the issue of maintainability and then depending upon the view taken, on the merits of the case.

The civil appeal is disposed of in view of the above.

.....J.  
[MADAN B. LOKUR]

.....J.  
[DEEPAK GUPTA]

NEW DELHI;  
JANUARY 24, 2018.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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Date : 24-01-2018 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Appellant(s) Mr. Anand, Adv.  
Rajeshri Nivuratirau Reddy, Adv.  
Mr. Abhijit Sengupta, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

The civil appeal is disposed of in terms of the signed order.

Pending applications, if any, are disposed of.

(MEENAKSHI KOHLI)  
COURT MASTER

(KAILASH CHANDER)  
COURT MASTER

[Signed order is placed on file]