

**IN THE HIGH COURT AT CALCUTTA
(CIVIL APPELLATE JURISDICTION)
APPELLATE SIDE**

Present:

**The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya**

WPLRT 70 of 2026

**Abdul Sattar @ Sattar Ali and another
Vs.
The State of West Bengal and others**

For the Petitioners	:	Mr. Partha Sarathi Bhattacharyya, Sr. Advocate Mr. Raju Bhattacharyya
For the State	:	Mr. Nilanjan Bhattacharjee, Sr. Standing Counsel Ms. Jayita Dhar Chakraborty Mr. Suman Banerjee
For the Respondent Nos. 7 to 53	:	Mr. Prosenjit Mukherjee Mr. Jahangir Hossain, Mr. Arghya Kamal Das
Heard On	:	08.07.2026 & 13.07.2026
Reserved On	:	13.07.2026
Judgment On	:	21.08.2026

Supratim Bhattacharya, J.:

1. The present writ petition has been preferred by the petitioners namely Abdul Sattar alias Sattar Ali and Sabed Ali both sons of late Based Ali being aggrieved by and dissatisfied with the judgment and order delivered on 19.12.2025 passed by the West Bengal Land Reforms and Tenancy Tribunal (hereinafter to be referred to as LRTT) in original application being O.A. 2907 of 2025 (LRTT).

2. In prelude to the present writ petition the petitioners above named preferred an application under Section 10 of the LRTT Act 1997 seeking correction of the record of rights by the Block Land and Land Reforms Officer (hereinafter to be referred to as BL & LRO), Hemtabad Uttar Dinajpur stating inaction on the part of the said BL & LRO.
3. Brief fact of the present lis as per the appellants is that the land in question was sold by Based Ali, the father of the appellants to Hafeza Khatun , the grand-mother of the appellants on 19.04.1965. Thereafter the said Hafeza Khatun gifted on 02.05.1979 through two hiba-bil-iwazs to her grand-children that is the two appellants. The name of both the appellants was recorded in LR record of rights and the petitioners have been in possession and are paying rent.

It has also been stated that Badiruddin Ahamed, grand-father of the appellants had two wives, first wife namely Hafeda Khatun while the second wife namely Hafeza Khatun. It has also been stated that subsequently Hafeza Khatun was divorced and the said Hafeza Khatun used to live separately in a separate mess since long.

Thereafter the petitioners acquired knowledge that the Revenue Officer had initiated a proceeding under Section 14 T(3) of the West Bengal Land Reforms Act, 1955 (hereinafter to be referred to as the 1955 Act) and directed to have the said property in question to be vested, in pursuance to a return submitted in Form 7A by Hafeda Khatun, the first wife of the said Badiruddin, as per Section 14T (1) of the 1955 Act.

The proceeding under Section 14T of the 1955 Act was initiated on 07.01.1976 being case No. 5/H/76 against Hafeda Khatun and the same was concluded on 03.06.1981 culminating into the finding that Hafeda Khatun and Hafeja Khatun both being wives of Badiruddin Ahamed had total land measuring 47.54 acres of non-agricultural land in the non-irrigated area as on 15.02.1971. Thereby 9.33 acres of agricultural land was directed to be vested to the State by an Order dated 13.10.1979 and the remaining area of agricultural land may be adjusted out of the retained land of 17.30 acres of agricultural land in the non-irrigated area.

In this regard notice was not served upon either Hafeza or her heirs and in spite of non-issuance of such notice order of vesting was passed.

Thereafter a suit being O.C. suit No. 231 of 1981 was preferred before the Court of the Ld. Munsif at Raigunj, West Dinajpur by Sabed Ali and Abdul Sattar both sons of Based Ali against the State of West Bengal and the Junior Land Reforms Officer Hemtabad, District West Dinajpur challenging the revisional survey record and the order of vesting directed by the concerned Revenue Officer on the basis of the proceeding under Section 14T (3) of the 1955 Act pursuant to a return filed in Form No.7A by Hafeda Khatun. Through the said pleadings it had been stated that Badiruddin had two wives namely Hafeda Khatun and Hafeza Khatun, but subsequently Hafeza Khatun was divorced about 30 years earlier since when she had been living in separate mess as such the property

exclusively belonged to Hafeza Khatun. It was stated that the proceeding was initiated without giving any notice to the persons who were entitled to receive the notice. As the officers of the State Government threatened the said plaintiffs to dispossess them from the suit land so the cause of action for this suit arose.

The defendant/State had contested the suit and had asserted that as per relevant documents and the proceeding under Section 14 T (3) of the 1955 Act. Based Ali had sold 8.56 acres of land that is the suit land in favour of his mother Hafeza Khatun by a registered deed dated 09.04.1965 and the land of Hafeza would be taken into account as the land of Badiruddin's family as the said Badiruddin was the head of the said family and the Revenue Officer had rightly accounted the said land for Hafeza Khatun in determining the ceiling area of the said Raiyat after treating Badiruddin's family consisting of two members in terms of the 1955 Act and as such the vesting order passed by the Revenue Officer was legal and justified.

The said Court while deciding the issue took into consideration the fact that the plaintiff's assertion was that the suit properties previously belonged to Based Ali son of Badiruddin Ahamed who sold it to his mother Hafeza Khatun on 19.04.1965 for a consideration of Rs. 2500/- and on 02.05.1979 Hafeza Khatun gifted those properties to the plaintiffs by executing two hiba-bil-iwazs and possession was delivered. The said Court had also taken into consideration that Badiruddin had

two wives namely Hafeda Khatun and Hafeza Khatun and the said Hafeza Khatun was divorced by her husband and she used to live in a separate mess. The said Court had also taken into consideration that the defendant State had produced the return in Form No. 7A filed by Hafeda Khatun in proceeding Case No. 5/H/76. The said Court had also taken into consideration Column No. 3 of the said Form which speaks about the members of the said family of the Raiyat and had found that Hafeda Khatun had mentioned the names of the grand-sons and grand-daughters as the members of her family but had excluded the name of Hafeza Khatun and had opined that had Hafeza Khatun been really a member of the family of Hafeda Khatun her name would have been mentioned in Column 3 of the return. Considering this aspect the Court was of the view that Hafeza Khatun used to live in a separate mess which was also supported by the evidence of the witness on behalf of the plaintiffs. The said Court has also stated that apart from the above the defendant State has not been able to adduce any evidence either oral or documentary to show that Hafeza Khatun used to live in same mess with Badiruddin as his wife. The plaintiffs had alleged that they had not received any notice of the proceeding and the Revenue Officer had given his verdict *ex parte* and on going through the proceeding the Court had reached the finding that no notice was given to the plaintiffs.

The said Court had also come to the finding that the Revenue Officer initiated the proceeding against Hafeda Khatun but not against

Badiruddin and the return was filed by Hafeda Khatun and had thus reached the conclusion that Hafeda Khatun was the Raiyat of the properties and the suit properties were directed to be vested as her non-retained surplus land.

The Court had also taken into consideration that *vide* order dated 08.04.1981 the Ld. Revenue Officer had observed Badiruddin Ahamed being Karta of the family, Hafeza Khatun as wife may also be treated to be a member of his family and the purchased land of Hafeza Khatun in the year 1965 may also be taken into consideration ascertaining the total land of the Raiyat and the family. The said Court had also taken into consideration that those Form F3 is prepared in the name of Hafeza Khatun to take the land into the account of the Raiyat and Badiruddin Ahamed was the Karta of the family having his wife Hafeda Khatun who is also a Raiyat and another wife Hafeza Khatun who is also having land is also a Raiyat and member of the family of Badiruddin Ahamed and from the above observation of the Ld. Revenue Officer it is clear that Badiruddin Ahamed was treated to be the Karta of the family and if that be so under Section 14T of the 1955 Act notice ought to have been given upon the head of the family and proceeding should have been drawn against him but it is fact that the proceeding was started not against Badiruddin Ahamed but against Hafeda Khatun. The Court has also taken into consideration that there was no reason to draw a proceeding against Hafeda Khatun and not against Badiruddin Ahmed. The said

Court had also taken into consideration as to whether Hafeza Khatun can be treated as a member of the family of Hafeda Khatun against whom the proceeding was started and the land was directed to be vested.

The said Court had also taken into consideration the definition under Section 14K (c) of the 1955 Act and explanation to which refers that wife, son or daughter shall, in relation to a Raiyat who is a woman, be construed as reference to the husband, son or daughter, respectively of such woman and has stated that Hafeza Khatun can never be the wife or husband of Hafeda Khatun and this being the position Hafeza Khatun can never be said to be a member of the family of Hafeda Khatun and since Hafeza Khatun can never be deemed to be member of the family of the Raiyat that is Hafeda Khatun the land which Hafeda Khatun acquired by way of purchase from Based Ali can never be amalgamated with the land of Hafeda Khatun in determining her total land. The said Court had also taken into consideration that there is no evidence either oral or documentary to prove that Badiruddin was the Raiyat at the material point of time of vesting while it was Hafeda Khatun who has been accepted by the state to be the Raiyat of the properties and as there is no scope to amalgamate the properties of Hafeza Khatun with the properties of Hafeda Khatun so the suit properties cannot be directed to be vested as against Hafeda Khatun. Having such finding the said Court had opined that the vesting order passed by the Revenue

Officer was illegal and contrary to the provisions of law. As such the said Court had decreed the suit in favour of the plaintiffs on contest against the defendant/State thereby decreeing the suit for declaration of title in favour of the plaintiffs and permanently restraining the State from disturbing the plaintiff's possession over the disputed properties.

4. Being aggrieved by and dissatisfied with the judgment and decree dated 27.07.1988 passed in O.C. Suit No. 231 of 1981 the State of West Bengal preferred an appeal being O.C. Appeal No. 30/88. Ultimately on 29.06.1989 the Assistant District Judge, Raigunj held that the Judgment and decree passed by the Ld. Munsif was correct as such the said judgment was affirmed and the O.C. Appeal was dismissed on contest.

The Appellate Court while coming to such finding had taken into consideration the term 'family' as has been laid down in Section 14 K (c) of the 1955 Act. As per the said Section 'family' in relation to a Raiyat shall be deemed to consist of himself and his wife, minor sons, unmarried daughters if any. The said appellate court had come to the finding that Hafeza Khatun was not a family member wherein the said Badiruddin was the Karta. The said court had opined that in the Form 7A submitted by Hafeda Khatun, Hafeza Khatun has not been shown as a family member, as such the said land cannot be construed to be within the said family so it cannot be taken into consideration that there was excess land beyond the permissible ceiling limit which could

have been vested as has been directed by the Revenue Officer. Banking upon the said facts the appellate court had affirmed the judgment passed in the O.C. suit.

5. Thereafter proceeding was initiated dated 20.12.2022 involving annulment of patta issued jointly in the matter of Surendranath Das alias Surendra Das and forty others Vs. Bipul Raybansi and sixty six others bearing the number 01/Annul/Hemtabad/2014.

Vide case NO. 5/H/76 dated 08.04.1981 and case No. 69/BL & LRO /H/94 dated 10.09.1994 under Section 14 T(3) of the 1955 Act was initiated.

The appellate authority under Section 54 of the 1955 Act *vide* case No. 62/A/12 and 66/B/12 both of 2012 ordered that the above mentioned two vested proceedings are remanded back to the BL & LRO Hemtabad along with the direction to give relief to the appellants under Section 14U (2) and 14U (3) of the 1955 Act keeping in view the following:

That is to verify all the registered deeds of the appellants and if those are found to be justified then keep the said lands in the retained schedule of the big Raiyat and to vest equal quantum of land from the earlier retained schedule of the big Raiyat which is free from encumbrances and to dispose of the remand hearing by issuing hearing notice to all the stakeholders.

In 2013 the BL & LRO Hemtabad initiated the remand hearing and found that the below noted schedule of land has been transferred

through registered sale deeds to the present petitioners by the big Raiyat prior to the date of vesting.

Mouja Kakarsingh, JL NO. 86, P.S. Hemtabad

Plot No.	Area in acre
871	0.70
892	0.66
893	2.37
896	2.66
899	2.28
Total	8.67

As such the BL & LRO Hemtabad passed an order to keep the above mentioned 8.67 acres of land in the 'retained schedule' of the big Raiyat. It was found that most part of the above mentioned schedule of land had already been given Raiyati Patta settlement among 67 patta holders.

The BL & LRO Hemtabad has further found that the said big Raiyat holds another 8.56 acres of land in the same mouja comprising of several other plots. As such the said BL & LRO had ordered to keep the aforementioned 8.67 acres of land in the 'retained schedule' of the big Raiyat while vesting the aforementioned 8.56 acres of land from the said big Raiyat without affecting the interest of the State.

As such to execute the above order the annulment of patta settlement was required to be initiated and for that purpose this proceeding was initiated. Thereafter notices to all the stakeholders were issued and were directed to remain present during the hearing.

On behalf of the petitioners it was submitted that they have purchased the suit plots vide registered deeds being No. 9935, 9936 and 9938 all dated 29.08.1979 from Hafeda Khatun wife of Badiruddin Ahamed.

It was further stated on behalf of the petitioners that they intend to have due relief as per the order of the Revenue Officer under Section 50 (f) of the 1955 Act.

It was further contended that the big Raiyat holds separate land shown as retained land in the same mouja having more than the quantity of land already vested and subsequently pattas have been allotted.

The opposite parties had appeared physically and unequivocally stated that they are very much willing to shift to the other land of the ex-big Raiyat as it is in the vicinity of their existing patta land in the same mouja.

On the basis of the report received from the land department, submission of both the parties, scrutiny and examination of all relevant papers and all documents submitted by them and after hearing all by the DM & DC-in-charge and Additional LAO the Ld. Revenue Officer had come to the conclusion that the case land was wrongfully vested to the State and the relief to be provided to the petitioner of the same case by

recording his name in the suit plots as per the registered deeds submitted by him and as the suit land has been distributed under Section 49 of the 1955 Act it necessitates annulment of patta as the vesting of the suit land in question is void ab-initio accordingly annulment of pattas involved in the instant case has been allowed and the BL & LRO has been instructed to record the annulment in Register VIII and correct the record of rights by reflecting the plots with quantum of land involved in khatian No.1. The BL & LRO Hemtabad was also instructed to first vest the equal quantum of land from the Big Raiyat's LR Khatian in lieu of the land allowed to be retained as per the provision of Section 14 (U) of the 1955 Act upon reciprocally vesting equal quantum of land and to consider those pattadars for fresh settlement over the same as per the provisions of Section 49 of the 1955 Act.

- 6.** The Ld. Senior Counsel representing the petitioner during his exhaustive submission has categorically emphasized upon the following points:
- i.** The issue that the BL & LRO ought to have rectified the record of rights as per the judgment of the trial court being affirmed by the appellate forum.
 - ii.** He has further submitted that the non-compliance of the order of the civil court by the Revenue Officer is in gross violation of the provisions of law.

- iii.** He has further submitted that the civil courts have passed the order of rectification of the Record of Rights in accordance with the provisions of law and not in contravention with the provisions of the law.
- iv.** The Ld. Senior Counsel has further submitted that bar to jurisdiction of the civil court as laid down under Section 51C of the West Bengal Land Reforms Act, 1955 and Section 57B of the Estate Acquisition Act, 1953 are in respect of different issues and not in respect of the issues which have been dealt in the present lis.
- v.** He has further submitted that the issue of title has been dealt by the civil court in the present lis which falls within the domain of the civil court as such the bar laid down is not attracted in the present case.
- vi.** He has further submitted that a representation was submitted before the BL & LRO Hemtabad praying for correction of the Record of Rights on the basis of the judgment passed in the suit and affirmed by the appellate court ought to have been accorded to by the concerned BL & LRO and has further contended that the West Bengal Land Reforms and Tenancy Tribunal has grossly misinterpreted both the statutes and the provisions of law laid down therein, thereby directing that the

concerned BL & LRO is not bound to act as per the order of the civil court is contrary to and in utter violation of the law.

vii. The Ld. Counsel has placed the order of the Revenue Officer under Section 49(2) of the W.B.L.R. Act, 1955 & Sub-Divisional Officer Raigunj dated 20.12.2022 and has submitted that the BL & LRO Hemtabad was instructed to record the fact of annulment in Register VIII and correct the record of rights.

viii. The Ld. Senior Counsel has also submitted that the Khatian No. being referred to as 1147 should be read as Khatian No. 1148 which is reflected from the LR record of rights which is in the name of Hafeza Khatun.

ix. The Ld. Senior Counsel has also referred to Order No.37 dated 03.06.1981 passed in the proceeding under Section 14T of the West Bengal Land Reforms Act, 1955 and has submitted that the said Revenue Officer has stated in details that Hafeza and Hafeda Khatun were the wives of Badiruddin Ahamed and as Hafeda Khatun has been considered to be a Raiyat so in no way Hafeza Khatun can be taken into consideration as a family member of the Raiyat Hafeda Khatun.

x. The Ld. Senior counsel has further submitted that the proceeding under Section 14T of the 1955 Act was started not against Badiruddin but against Hafeda Khatun and in no way

Hafeza Khatun comes within the family of Hafeda Khatun as per the definition of family.

xi. The Ld. Senior counsel has time and again reiterated that the bar of jurisdiction of civil courts under Section 14X of the 1955 Act does not come into play.

As such the Ld. Counsel has prayed for allowing the present appeal and thereby setting aside the impugned judgment passed by the said Tribunal.

7. Per Contra, the Ld. Senior Standing Counsel representing the State submitted the following:

i. That the impugned judgment passed by the West Bengal Land Reforms and Tenancy Tribunal is correct and requires no interference.

ii. He has further submitted that as per Section 57B of the 1953 Act and Section 51C of the 1955 Act there is bar to jurisdiction of civil court in respect of certain matters and the issues being dealt in this present lis falls within the purview of those matters which have been barred to be adjudicated by the civil court. He has also relied upon Section 14 X of the 1955 Act.

iii. The Ld. Counsel has relied upon two authorities. The first one being a judgment passed by this Bench published in **2026 Scc Online Cal 1715** in the case between **Sridam Mahata and Ors.**

Vs. State of West Bengal and Ors and the other passed by a coordinate Bench of this Court published in **2025 Scc Online Cal 6997** in the case between ***Abdul Hakim Mondal and Ors. Vs. The State of West Bengal and Ors.***

8. From the facts of the present lis it transpires that the writ petitioners have prayed for rectification of the record of rights by the BL & LRO Hemtabad on the ground that the Civil Court in O.C. Suit has directed that the vesting of the excess land belonging to Hafeza Khatun does not come within the purview of the land of Hafeda Khatun as because by no means Hafeza Khatun comes within the ambit of 'family' of Hafeda Khatun as because Badiruddin had two wives one Hafeda and the other Hafeza. The said Hafeza had been divorced and was residing in a separate mess since long. The Trial Court has also opined that the family has not been taken into consideration as that of Badiruddin instead the property of Hafeda has been taken into consideration who was not the Karta of the family. Thereby the Trial Court has come to the conclusion that the property vested in favour of the State being in excess of the land ceiling limit being in possession of Hafeda is not the correct finding. As such vesting of the excess land over and above the ceiling limit is incorrect.

The Appellate Court has affirmed the judgment of the Trial Court.

This being the position the petitioners sought for rectification of the Record of Rights which has not been abided by and has been overturned by the Tribunal.

9. As regards to bar of Civil Court the following sections are dealt with. Section 57B of the West Bengal Estate Acquisition Act, 1953 (hereinafter to be referred to as the 1953 Act) states as follows:

“57B. Bar to jurisdiction of Civil Court in respect of certain matters. –

(1) Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of rent or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application, in which any of the aforesaid matters is in issue, is pending before a Civil Court on the date of such order, it shall be stayed, and it shall, on the expiry of the period prescribed for an appeal under sub-section (3) of section 44 or when an appeal has been filed under that sub-section, as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.

(2) No Civil Court shall entertain any suit or application concerning any and or any estate, or any right in such estate, if it relates to

(a) alteration of any entry in the record-of-rights finally published, revised, made, corrected or modified under any of the provisions of Chapter V,

(b) a dispute involving determination of the question, either expressly or by implication, whether a raiyat or an intermediary, is or is not entitled to retain under the provisions of this Act

such land or estate or right in such estate, as the case may be, or

(c) any matter which under any of the provisions of this Act is to be, or has already been, enquired into, decided, dealt with or determined by the State Government or any authority specified therein, and any such suit or application which is pending before a Civil Court immediately before the commencement of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act No. 33 of 1973), shall abate so far as it relates to all or any of the matters referred to in clause (a), clause (b) or clause (c).

(3) Any dispute referred to in clause (b) of sub-section (2) may be decided by a Revenue Officer not below the rank of an Assistant Settlement Officer, specially empowered by the State Government in this behalf, who shall dispose of the same in such manner as may be prescribed :Provided that in deciding a dispute under this sub-section the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act.

(4)Any person aggrieved by a decision of the Revenue Officer made under sub-section (3) may appeal to the prescribed authority not below the rank of a Settlement Officer, within such time, in such manner and subject to payment of such fees as may be prescribed.

(5)A decision made by the Appellate Authority under sub-section (4) shall be final. Explanation.—In this section

—(i)suit includes an appeal, and

(ii)an authority includes an authority to hear an appeal.]”

- 10.** From the said section it transpires that no civil court shall entertain any suit or application concerning any land or any estate or any right in such estate if it relates to alteration of any entry in the

record of rights finally published, revised, made, corrected or modified, or a dispute involving determination of the question, either expressly or by implication, whether a Raiyat or an intermediary is or is not entitled to retain under the Provisions of this Act such land or estate or right in such estate as the case may be or any matter which under any of the provisions of this act is to be or has already been enquired into, decided, dealt with or determined by the State Government or any authority specified therein.

Section 61 of the 1955 Act States as follows:

“61. Bar to jurisdiction of court.

(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force or in any decree, judgment, decision or award of any court, tribunal or authority, no court shall have jurisdiction to determine any question relating to any land or connected with any matter which is required to be or which has been enquired into or decided by any Revenue Officer or prescribed authority or any officer or authority under the provisions of this Act.

(2) Any Revenue Officer or prescribed authority or other officer or authority empowered under the provisions of this Act shall have exclusive jurisdiction to enquire into and decide any question relating to any land in connection with any matter which is required to be enquired into or decided by any prescribed authority or other officer or authority under the provisions of this Act.

(3) Nothing in sub-section (1) and sub-section (2) shall be deemed to affect any right which the parties to any dispute may otherwise have against each other.”

From the aforementioned section it transpires that no court shall have jurisdiction to determine any question relating to any land or connected with any matter which is required to be or which has been enquired into or decided by any Revenue Officer or prescribed authority or any officer or authority under the provisions of this Act.

11. In the present lis a proceeding was instituted under Section 14T of the 1955 Act. Section 14T has stated in details as regards to the duty of a Raiyat to furnish return. In the present case it was Hafeda Khatun who had furnished the return to the Revenue Officer and considering the said return the Revenue Officer had come to the conclusion as regards to vesting of the excess land.

12. From the discussion of the Trial Court it transpires that no notice of the proceeding under Section 14 T of the 1955 Act was served upon the petitioners. On the contrary it provides that one Alauddin Sarkar for and on behalf of Hafeza Khatun had filed an application. Apart from this there is no recording as to whether Hafeza Khatun was given any notice of the proceeding. The said Alauddin was not an advocate and nothing has been produced to show that the said Alauddin was the authorized agent of Hafeza Khatun. As such the Trial Court has come to the conclusion that no notice was served upon Hafeza Khatun or that she appeared through her agent. This being the finding of the Trial Court and being affirmed by the appellate court the petitioners have

been granted the decree for declaration of title to the disputed plots and to other consequential reliefs as prayed for.

Thus, there being violation of the provisions of natural justice as well as statutory provision, the proceeding of vesting of the excess land in favour of the State cannot be taken into consideration. This being the position the proceeding under Section 14T (3) of the 1955 Act is of no consequential value which was the opinion of the Civil Court in the suit and affirmed by the Appellate Court.

13. From the submission of the Ld. Counsels it transpires that the moot point is whether the civil court had the jurisdiction to hear the lis (Original Application) seeking declaration in respect of the suit properties and thereby directing the concerned BL & LRO to rectify the record of rights. In this context Section 57 B of the 1953 Act comes into play.

Sub-Section 2 (b) of Section 57B deals in respect of dispute involving determination of question, either expressly or by implication as to whether a Raiyat or an intermediary, is or is not entitled to retain under the provisions of this Act such land or estate or right in such estate, as the case may be. In the present lis the question which arises is that whether the property belonging to Hafeza Khatun will be taken into consideration while considering the total quantum of land being possessed by the Raiyat Hafeda Khatun.

It has revealed that one Badiruddin had two wives, first wife namely Hafeda while the second wife namely Hafeza Khatun. It is the contention of the appellants/petitioners that Hafeza was divorced by Badiruddin and used to reside in a separate mess since long. It is also the contention of the appellants that Based Ali the son of Hafeza sold the suit properties to Hafeza Khatun on 19.04.1965 and subsequently on 02.05.1979 Hafeza Khatun transferred the suit properties to her grandchildren that is the appellant No.1 namely Sabed Ali and to Abdul Sattar by way of two hiba-bil-iwaz. It is also the contention of the appellants that through the proceeding under Section 14T the respondent/State had initiated a proceeding on the basis of Form 7A filed by Hafeda Khatun. It has also been contended on behalf of the petitioners that it was Hafeda Khatun who was considered to be the Raiyat and her property was in contention and not that of her husband that is the Karta of the family namely Badiruddin. It is also the contention on behalf of the petitioners that by no means under Section 14K as laid down under the 1955 Act Hafeza Khatun comes within the definition of '*family*' of Hafeda Khatun and had it been the properties of Badiruddin which had been taken into consideration then the issue would have been otherwise but in that aspect also Hafeza Khatun could not have been taken into consideration as a family member of Badiruddin as she used to reside in separate mess since long after being divorced by Badiruddin. In respect of Raiyat namely Hafeda Khatun in no way Hafeza Khatun can be

considered as to be within the '*family*' of Hafeda Khatun as Hafeza Khatun does not come within the purview of spouse (husband or wife).

14. This Court refers to the case between ***Sudharani Maity and Others Vs. State of West Bengal and Ors.*** reported at ***(2003) 1 CHN 1*** wherein it has been stated that the decree of the civil court passed in connection with Section 57B (2) of the 1953 Act cannot be called in question or a nullity, can be declared by the Tribunal. The judgment passed in ***Sudharani Maity (supra)*** has been dealt extensively by a co-ordinate Bench of this Hon'ble Court in the case between ***Sridam Mahata and Ors. Vs. State of West Bengal and Ors.*** reported at ***(2026) SccOnline Cal 1715*** and has come to the finding that the bar under Section 57B (2) of the 1953 Act was not totally nullified through the judgment passed in ***Sudharani Maity (supra)***, instead through the said judgment in ***Sudharani Maity (supra)*** the following criteria have been laid down clarifying as to the situations where the jurisdiction of the Civil Court is not barred, those are

- i) if in a case there is violation of the principles of natural justice and/or
- ii) the authority passing the decision is not empowered under Section 57B (2) of the 1953 Act and /or
- iii) the dispute does not come within the mischief of clauses (a) to (c) of Section 57B (2) and/or

iv) the principal prayer in the suit is declaration of title (which the authorities under the relevant statute are not empowered to adjudicate) and the reliefs claimed regarding the records of rights are consequential in nature.

So from the judgment passed in **Sridam Mahata (supra)** it is clear that Section 57B of the 1953 Act does not completely bar the civil court from entertaining suits but where there is violation of the principles of natural justice, where the deciding authority is not empowered, where the dispute does not come within the mischief of Clauses (a) to (c) of Section 57B 2 and where the principal prayer of the suit is declaration of title then and only then the civil court has the jurisdiction.

- 15.** In the present lis, the issue of violation of natural justice was raised before the civil court which has been accepted by the Court in O.C. suit No. 231 of 1981 but the Ld. Appellate Court in O.C Appeal No. 30/88 has dealt with the issue of vesting of the suit land without giving notice to the plaintiffs or their predecessor in interest that is said Hafeza Khatun. While dealing this issue the Ld. Appellate Court has stated that *“... the order dated 26.05.81 shows that Based Ali on behalf of his mother Hafeza Khatun appeared and filed Hajira. So there was service of notice. It cannot be totally denied.”* So the issue of non-service of notice comes to an end and goes against the petitioners. So there was no violation of the principles of natural justice.

As regards to empowerment of the authority passing the decision of vesting it has not been challenged.

The contention of the lis primarily involves Section 57B (2) Clause (b) that is dispute involving determination of the question whether a Raiyat is or is not entitled to retain under the provisions of the 1953 Act such land, so, the dispute herein comes within the purview of Clause (b) of Section 57B(2).

The point of litigation in the present lis does not involve declaration of title so this issue also does not come into play. The present lis does not by whatever means comes within the ambit of the exceptions as laid down in the case of ***Sudharani Maity (supra)***.

16. Thus, from the aforementioned discussion it can be said that the present lis does not come outside the purview of Section 57B of the 1953 Act. As such there is bar in the jurisdiction of the civil court to interfere in the present lis.

So the impugned judgment passed by the Tribunal does not require interference.

17. As such **WPLRT 70 of 2026** stands **dismissed**.

I Agree,

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)