Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Supratim Bhattacharya

WPLRT No. 219 of 2025

Anil Pal @ Anil Kumar Paul and another
-vs-
The State of West Bengal and others

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| For the petitioners | : | Mr. Subrata Ghosh,<br>Mr. Biswarup Biswas,<br>Mr. Tanmay Chowdhury |
| For the State | : | Sk. Md. Galib, Sr. Govt. Adv.,<br>Ms. Priyamvada Singh. |

Heard on : February 9, 2026.

Judgment on : February 9, 2026.

**<u>Sabyasachi Bhattacharyya, J.</u>:**

1. The present challenge has been preferred against an order passed by the West Bengal Land Reforms and Tenancy Tribunal, thereby affirming an order passed by the District Land and Land Reforms Officer (DL & LRO), Hooghly in LR

Appeal No. 89 of 2002 under Section 54 of the West Bengal Land Reforms Act, 1955 (in short "the 1955 Act"), upholding the order dated June 14, 2002 passed by the Block Land & Land Reforms Officer (BL & LRO), Dhaniakhali, Hooghly, in Case No. 10/DNK/14T(5)/02.

2. Initially, the present writ petitioners had preferred a challenge against a proceeding initiated under Section 14T(3) of the 1955 Act on the ground that while calculating the ceiling limits, the provisions of Section 14M were not considered and lands which had already been transferred by the grand-mother of the writ petitioners, namely, Nirmala Bala Dassi, in favour of her two grandsons and one daughter-in-law had also been included within the land held by the raiyat.

3. The same culminated in a proceeding before the learned Tribunal, giving rise to Case No. TA 812/2000 (LRTT) in CR No. 10795(w) of 1983, having initially been filed by way of a writ petition before this Court and subsequently transferred to the Tribunal.

4. The Tribunal, vide order dated July 10, 2001, quashed the proceeding and directed the BL & LRO, Dhaniakhali, Hooghly, to proceed afresh under the amended provisions of the 1955

Act to determine the ceiling area of the raiyat / raiyats as expeditiously as possible.

5. Thereafter, by a notice dated May 15, 2002, issued purportedly under Sections 14T(5), read with Sections 14T(8) and 14T(9), of the 1955 Act to the writ petitioners.

6. A written objection was filed by the writ petitioners in respect of the said notice, wherein it was pointed out that the size of the family of late Nirmala Bala Dassi as on February 15, 1971 was a single unit family and therefore she was entitled to retain 2.50 standard hectares (equivalent to 6.178 acres) of land in irrigated area. It was further pleaded that Nirmala Bala Dassi, since deceased, was a raiyat and she owned 11.52 acres of land, out of which she transferred 6.74 acres of lands by three registered deeds of gift in favour of his daughter-in-law and two grandsons in the year 1965.

7. Thus, it was contended that as on February 15, 1971, the said Nirmala Bala held only 4.78 acres of land, which came within the ceiling limit as prescribed by the 1955 Act.

8. However, the concerned BL & LRO, after holding an enquiry and taking evidence, arrived at the finding that the said gift deeds executed by Nirmala Bala Dassi were not *bona fide*

transactions, but merely paper transactions having no effect. Accordingly, it was ordered that the 6.74 acres of land of the concerned Mouza, which were gifted to the grandsons and the daughter-in-law, were benami lands of the said Nirmala Bala Dassi.

9. The said order having been affirmed by the appellate authority, being the DL & LRO, Hooghly, under Section 54 of the 1955 Act, OA No. 4162 of 2002(LRTT) was preferred by the writ petitioners before the Tribunal, which culminated in the impugned judgment dated April 11, 2025, whereby the findings of the BL & LRO and DL & LRO were affirmed.

10. Learned counsel appearing for the writ petitioners submits that no opportunity of cross-examination was given to the writ petitioners, although the BL & LRO relied on the evidence of two witnesses, purportedly of the neighbourhood of the said plot. Thus, a cardinal principle of natural justice, to the effect that the affected party has a right of cross-examination, was violated.

11. Moreover, learned counsel places reliance on a judgment of a learned Single Judge of this Court in the matter of *Md. Saha Alam Fakir & Ors. Vs. The State of West Bengal & Ors.*

reported at *1981(1) CHN 212* to argue that in an enquiry before the Revenue Officer, the principles of Order XVIII Rule 18 of the Code of Civil Procedure (for short, "the Code") would be applicable,

12. Thus, it is argued that the lack of opportunity of cross-examination vitiated the proceeding before the BL & LRO.

13. Secondly, it is argued that the BL & LRO came to his findings without holding any field enquiry by an independent person.

14. Thus, by dint of himself holding an enquiry and taking evidence, the BL & LRO acted as the Enquiry Officer as well the Investigating Officer, clubbed with the role of an adjudicating authority.

15. Hence, the BL & LRO acted as a judge of his own cause, which violates fundamental and cardinal principles of jurisprudence in India.

16. Learned counsel appearing for the writ petitioners next argues, by placing reliance on a judgment rendered by the Hon'ble Supreme Court in *Prasanta Kumar Pal and others V. State of West Bengal and others* reported at *2025 SCC OnLine SC 1356* that in such cases, where the deeds of gift

were executed much earlier than the amendment to Section 14T(5) under the 1955 Act came into force (in 1989), it would be absurd to accept the argument that such a transaction can be held to be benami with reference to such amendment carried out in the 1955 Act with effect from May 12, 1989.

17. In the said decision, the registered gift deeds had been executed on December 7, 1967 whereas, in the present case, the gift deeds-in-question were executed as long back as in the year 1965.

18. Hence, following the principle as laid down in *Prasanta Kumar Pal* (supra), it is argued by the writ petitioners that the BL & LRO palpably erred in law and holding the gift deeds-in-question executed by Nirmala Bala Dassi to be benami transactions.

19. Consequentially, the order of the DL & LRO and the Tribunal affirming the same, it is contended, should also be set aside.

20. Learned counsel appearing for the writ petitioners places reliance on the language of Section 101 of the West Bengal Land Manual, 1991 (1991 Manual) to argue that the ceiling limits under the West Bengal Estate Acquisition Act, 1953

(hereinafter referred to as “the Act of 1953”) ought to be taken as the standard for consideration of an enquiry under Section 14T(5) of the 1955 Act. Approached from such perspective, it is argued that the land held by the raiyat Nirmala Bala Dassi came well within the ceiling limits as contemplated in the Act of 1953.

21. It is further argued by learned counsel for the writ petitioners that the scope of enquiry within the purview of Section 14T(5) has to be read in the light of Section 5A of the Act of 1953.

22. No such enquiry, it is contended, could be undertaken unless, in the first place, the concerned raiyat held land exceeding the ceiling limit. In the present case, since it was already decided in the first round of litigation that the land held by the daughter-in-law and two grandsons of the raiyat could not be construed to be within her holding, the BL & LRO could not reopen such finding under the limited purview of Section 14T(5) of the 1955 Act at all, in the absence of any proof that land beyond the ceiling limit was held by the raiyat.

23. Learned Senior Government Advocate, appearing for the State, controverts the arguments of the writ petitioners and

cites a co-ordinate Bench judgment of this Court in the matter of *Sri Bibhuti Bhusan Bankura and others Vs. State of West Bengal and others* reported at *(1994) 2 CHN 408*.

24. In the said judgment, it is argued, it was observed that an enquiry under Section 14T(5) of the 1955 Act is neither a review nor a recall and is completely separate from an enquiry under Section 14T(3) of the 1955 Act. Section 14T(5) relates to an enquiry regarding benami transfer for illegal purposes for evading and defeating the ceiling provisions of Chapter IIB of the 1955 Act.

25. That apart, an enquiry by a Revenue Officer under the provision of Section 14T(5) is clearly neither a suit nor a claim.

26. Learned Senior Government Advocate also cites a subsequent co-ordinate Bench judgment of this Court in the matter of *Sri Anantalal Chakraborty and another Vs. State of West Bengal and others* reported at *(2004) 1 Cal LJ 64,* which reiterated the proposition that an enquiry into a benami transaction under Section 14T(5) of the 1955 Act is permissible and the Revenue Officer is competent to hold an enquiry under the said Act.

27. Learned Senior Government Advocate next argues that under Section 14T(5) of the 1955 Act, the enquiry encompasses not only the question of benami but is wider in nature, including any question of title incidental thereto or any interest therein or any matter of transaction made. Thus, the limited context in which the Hon'ble Supreme Court rendered its judgment in *Prasanta Kumal Pal* (supra) is not applicable to the present case in the peculiar facts of the same.

28. Insofar as the observation of the learned Single Judge in *Md. Saha Alam* (supra) is concerned, it is argued that the Division Bench judgments in the matter of *Bibhuti Bhusan Bankura* (supra) and *Anantalal Chakraborty* (supra) clinches the issue in favour of the respondent authorities.

29. Learned Senior Government Advocate next contends that the scheme of Rules 100 and 101 of the 1991 Manual clearly lay down distinct and different ceiling limits under different statutes, being the Act of 1953 and the 1955 Act, and the two cannot be confused.

30. In the present case, it is submitted that the original raiyat Nirmala Bala Dassi held land beyond the ceiling limit, that is,

6.178 acres, since admittedly she held a total property of 11.52 acres of land.

31. Such ceiling limit was artificially sought to be reduced by gift of the property, to the tune of 6.74 acres, which brought down the land purportedly held by the said raiyat to within the ceiling limit.

32. Hence, it is argued that the findings of the concerned BL & LRO were perfectly justified. Even otherwise, it is argued that the evidence before the BL & LRO fully supported his findings.

33. Upon considering the arguments of the parties, the Court arrives at the following conclusions:

34. Insofar as the BL & LRO not having any field enquiry conducted by an independent person is concerned, the scope of enquiry as enumerated in Section 14T(5) of the 1955 Act is that the Revenue Officer shall, on his own motion or upon any information made, after giving the persons interested *an opportunity of being heard,* enquire and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein and/or any matter of transaction made.

35. The statute does not specifically stipulate the mode and manner in which such enquiry shall be held.

36. In the present case, although an enquiry was held by the BL & LRO, the same was not the only piece of evidence on which the BL & LRO relied on by his order.

37. Apart from such report, the said officer also took into consideration the oral evidence adduced by two independent witnesses and, more importantly, the evidence adduced by the writ petitioner no. 1 himself.

38. It is not the contemplation of the statute that the BL & LRO does not have the power to make an enquiry as contemplated under Section 14T(5) in his own way.

39. The proposition laid down in *Anantlal Chakraborty* (supra), following *Bibhuti Bhusan Bankura* (supra), strengthens such view.

40. The judgment in the matter of *Md. Saha Alam* (supra) was rendered in the context of an enquiry under Section 18 of the 1955 Act.

41. Section 18, read with Section 21, of the 1955 Act curtail the powers of the civil court to enquire into the question as to

whether a person is a recorded *bargadar* and place such enquiry within the domain of the Revenue Officer.

42. In such context, the learned Single Judge had observed that the procedures laid down in Order XVIII Rule 18 of the Code are applicable, since the enquiry undertaken by the Revenue Officer is akin to that of the Civil Court.

43. However, the factual premise in the present case is entirely different. Thus, it cannot be said that the ratio laid down in the said report is applicable to the present case.

44. The statute, in Section 14T(5) thereof, contemplates opportunity of hearing being given to the persons interested and an enquiry and adjudication being done by the Revenue Officer.

45. However, learned counsel for the petitioners has a point when he argues that since evidence was permitted to be adduced by two independent witnesses, an opportunity of cross-examination ought to have been given to the writ petitioners.

46. However, in order to read provisions of natural justice into a statute where it is not specifically provided for, the court has to proceed cautiously, the cardinal tests for such application

being the “prejudice test”. The court has to consider as to whether any real prejudice has been caused to a party by violation of the principles of natural justice complained of.

47. In the present case, the order of the DL & LRO clearly discloses that the said Officer did not rely on the evidence of the independent witnesses alone but also placed specific reliance on the evidence adduced by the writ petitioner no. 1 himself.

48. In the order dated June 12, 2002 passed by the BL & LRO in the proceeding before it under Section 14T(5), it was recorded that at the time of enquiry, Anil Kumar Paul, being the present writ petitioner no. 1, was present on behalf of the raiyat Nirmala Bala Dassi, apart from other two independent witnesses, namely, Monoranjan Mukhopadhyay and Lakshmi Narayan Ghosh.

49. Anil Kumar Paul, while adducing evidence, categorically admitted that the land of 6.74 acres was gifted by his grandmother for the purpose that such land may not be sold by their father Gopal, who was in the habit of selling lands whimsically. Thus, it is evident from such statement that the gift was not made for the purpose of donating the land

simpliciter to the donees but to avoid such land being sold by Gopal, the father of the writ petitioner no. 1, indiscriminately.

50. In the very next observation, the DL & LRO recorded that Anil Kumar Paul admitted that the said lands were cultivated by the donees *after the death of their grandmother* (donee).

51. The grandmother Nirmala Bala, was admitted to have died on June 20, 1982.

52. Thus, as per the admission of the petitioner no. 1 (namely, Anil Kumar Paul) himself, as recorded by the BL & LRO, during the long period between the execution of the gift deeds in the year 1965 and the demise of the donor on June 20, 1982, the land was not being cultivated by the donees.

53. Hence, read in conjunction with the evidence of the independent witnesses to the effect that the donor (original raiyat) continued to enjoy the usufructs of the said land even after the purported deeds being executed, the admission of the first writ petitioner herein clearly shows that the intention of the donor was not to execute a gift deed at all or to deprive herself of her title in the donated property.

54. Another important piece of evidence was extracted from the admissions of the writ petitioner no. 1, being that the deceased

uncle of the donees, namely, Dhirendranath helped to cultivate the lands.

55. The evidence of the writ petitioner no. 1 itself, read in totality, clearly shows that the lands-in-question, which were the subject matter of the gift deeds, were actually not donated for the purpose of donation but to save the concerned lands from being sold out by the father of the writ petitioner no. 1, namely, Gopal and that the donor, long after the execution of the gift deeds till her death in 1982, continued to cultivate the said lands, and it is only after her demise that the donees started cultivation thereon. The cultivation of the land by the original raiyat with the help of her brother was also established from the evidence of the writ petitioner no. 1 himself.

56. Hence, we do not find any prejudice being suffered by the writ petitioners for not being given opportunity to cross-examine the two independent witnesses as, from the evidence of the petitioner no. 1 himself, sufficient material was available before the BL LRO to come to his conclusions.

57. By similar logic, the report which was authored by the BL & LRO was not even necessary for coming to his conclusions, as

the admissions of the writ petitioner no. 1 were sufficient for such purpose.

58. Hence, the threshold objections taken by the writ petitioners regarding lack of opportunity of cross-examination and the BL & LRO acting as an enquiry office fail the 'prejudice test' and pale into insignificance, by dint of the evidence of writ petitioner no. 1 himself to support the findings of the BL & LRO.

59. Coming to the question of applicability of Rules 100 and 101 of the 1991 Manual, the argument of the writ petitioners, to the effect that the ceiling limits of the Act of 1953 ought to be imported to the 1955 Act, is not acceptable.

60. Rule 100, as rightly pointed out by the learned Senior Government Advocate, clearly distinguishes between the provisions imposing ceiling on land holding as embodied in the Act of 1953 and the 1955 Act. The references to the Act of 1953 in Rule 101 are only for the purpose of drawing analogy while making an adjudication under Section 14T(5) of the 1955 Act.

61. However, from a plain reading of Section 14 it is clear that the ceiling limits stipulated in the 1955 Act itself are the

yardsticks for making an enquiry under the provisions of the said Act. Since the Act of 1953 and the 1955 Act provide for separate and distinct ceiling limits, in an enquiry under the 1955 Act, it is the ceiling limit imposed by such statute which is to be looked into, and not that stipulated in the Act of 1953.

62. Thus, it is clear that Rule 101(ii) of the 1991 Manual, if read in proper context, has to be construed to the effect that if it prima facie appears that though the ostensible owner of a land is a person or trust other than the intermediary, but the intermediary is its real owner and enjoys its usufructs, a proceeding may be initiated within the purview of Section 14T(5) of the 1955 Act.

63. As such, if the gift deeds executed by the original raiyat Nirmala were to be ignored in the instant case, the land held by the original raiyat , namely, Nirmala Bala Dassi would come to 11.52 acres, which is above the ceiling limit of 6.178 acres as stipulated in the 1955 Act.

64. Thus, this Court does not find any illegality in the findings of the BL & LRO.

65. Next coming to the judgment of *Prasanta Kumal Pal* (supra), with utmost respect, it neither fell for consideration

before the Hon’ble Supreme Court, nor was adjudicated by the said Court, as to what would be the nuances and the interplay between the Act of 1953 and the 1955 Act.

66. The 1955 Act was enacted at a point of time when the Act of 1953 was still in force. At that juncture, there were two overlapping sets of separate land ceilings imposed by the two statutes. The said conundrum was sought to be resolved by Rules 100 and 101 of the 1991 Manual.

67. Rule 100 provides that the provisions imposing ceiling on land holding are embodied in Chapter II and Chapter VI of the Act of 1953 and in Chapter IIB of the 1955 Act. Determination of ceiling under the 1955 Act shall ordinarily be preceded by determination of ceiling under the Act of 1953.

68. Again, Rule 101(i) provides that at the time of determination of ceiling under the Act of 1953 in respect of an intermediary, it would be examined if Section 5A of the said Act is applicable and, if so, the proceeding under the said Section should be initiated and disposed of before determination of the ceiling.

69. However, a separate ecosystem has been created for the 1955 Act in Clause (ii) of Rule 101, which provides for an

enquiry to be initiated under Section 14T(5) of the 1955 Act in the event the ceiling limited under the said Act is violated.

70. In the year 1965, when the gift deeds were purportedly executed by the original raiyat Nirmala Bala Dassi, the 1955 Act had already come into force with its ceiling limits.

71. Hence, irrespective of the amended Section 14T(5) having been introduced only much later, with effect from May 12, 1989, at the juncture when the transaction was entered into, the ceiling limits under the 1955 Act were already in force. Thus, if a person wanted to evade the said ceiling limits and retain additional land, the instrument of benami transaction or a non-bona fide transaction was still available to the said raiyat, since at that juncture it was well-known to the raiyat as to how much could be retained by a single unit under the then-prevalent provisions of the 1955 Act.

72. What sub-section (5) of Section 14T, upon being introduced, did was merely to empower the concerned Revenue Officer to enter into an enquiry and decide the question of benami and matters of transaction which were not bona fide or questions of title incidental thereto, which

transactions were entered into after the coming into force of the said Act, even previous to the 1989 Amendment.

73. Hence, with all humility, the logic on which the Hon'ble Supreme Court decided the case in *Prasanta Kumar Pal* (supra) on its own facts did not take into consideration the legal position that even on the date of entering into the concerned gift, the raiyat was well aware of the ceiling limits and nothing prevented the said raiyat from seeking to evade the ceiling limits by transferring a portion of her land with the mala fide intention of evading the ceiling limit.

74. Thus, the ratio, that it would be absurd that a person entering into a transaction in 1965 would not be knowing about the amendment which was to come subsequently, does not hold good in the sense that the mala fides in the transaction and the attempt to evade the ceiling limit could very well has been exercised at the juncture of entering into the transaction itself much prior to the 1989 amendment, which was only sought to be detected by the subsequent amendment.

75. That apart, *Prasanta Kumar Pal* (supra) is not an authority on the interplay between the 1953 and the 1955 statutes as well and did not consider the aforesaid facets of the matter at

all, for the simple reason that those issues were neither argued nor decided upon by the Hon'ble Supreme Court.

76. Hence, with utmost respect, the said judgment cannot be a precedent in the present context.

77. In view of the above observations, this Court is of the opinion that the Tribunal was perfectly justified in passing the impugned judgment, thereby affirming the order of the BL & LRO and DL & LRO respectively.

78. Accordingly**,** WPLRT No. 219 of 2025 is dismissed on contest, thereby affirming the judgment dated April 11, 2025 passed by the Fourth Bench, West Bengal Land Reforms and Tenancy Tribunal in OA No. 4162 of 2002(LRTT), thereby affirming the orders passed by the DL & LRO and BL & LRO.

79. There will be no order as to costs.

80. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.

I agree.

(**Sabyasachi Bhattacharyya, J**.)

(**Supratim Bhattacharya, J**.)