

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya

And

The Hon'ble Mr. Justice Sandip Kumar De

W.P.L.R.T. No. 137 of 2026

Shalimar Wires Industries Limited

-Versus-

State of West Bengal and others

For the petitioner :	Mr. Debayan Bera, Mr. Rudradeb Chaudhuri, Mr. Shashwat Nayak, Ms. Saolini Bose, ... Advs.
For the State :	Mr. Nilanjan Bhattacharjee, Sr. Standing Counsel, Mr. Suman Banerjee, Ms. Ayana Banerjee ... Advs.
Heard on :	24.08.2026 & 03.09.2026
Reserved on :	03.09.2026
Judgment on :	29.09.2026

Sabyasachi Bhattacharyya, J.:-

1. The narrative in the present *lis* originates from the purchase of the subject plots by the writ petitioner, under its previous name, by a registered Deed dated May 3, 1962. The subject property is comprised of 4.73 acres of land out of total 18.228 acres of Mouza – Uttarpara, Police Station – Uttarpara, JL No. 12, District – Hooghly. The purchased land, in terms of the CS records, was described in the Second Schedule of the deed.

2. On or about August 23, 2013 and December 6, 2019, copies of LR Record of Rights (LR RoR) were issued to the petitioner in respect of various plots of land, including the purchased property, indicating the name of Shalimar Industries Private Limited as *Raiyat* against such plots.
3. Subsequently, the name of the company was changed to Shalimar Wires Industries Limited (the present petitioner).
4. Subsequently, an application for conversion in respect of 2.092 acres out of total 4.73 acres was made by the petitioner, which was allowed, thereby permitting the land to be converted to commercial *Bastu vide* order dated January 2, 2018 passed by the District Land & Land Reforms Officer (DL & LRO), Hooghly.
5. On March 9, 2021, petitioner filed an application for correction of its name in the LR RoR as well as to incorporate the change of character of the land in terms of the conversion order. However, by a letter dated December 20, 2021, the ADM & DL & LRO, Hooghly asked the petitioner to submit a proposal for lease in terms of the amended provision of Section 4B of the West Bengal Land Reforms (Amendment) Act, 2017 in respect of the land held by the company. The petitioner reiterated its request for correction of the LR RoR by a subsequent letter dated April 13, 2022, upon which the LR RoR was prepared on March 18, 2024 in respect of 4.711 acres for 32 plots, incorporating the name of the petitioner in place of Shalimar Industries Private Limited. However, the altered character of the land in terms of the conversion order was not reflected in the records. In the remarks column of the LR RoR, it was recorded "Section 6(3) of the W.B.E.A Act, 1953 is applicable".

6. The petitioner issued a letter to the Block Land & Land Reforms Officer (BL & LRO) Serampore-Uttarpara on April 2, 2024, requesting him to incorporate the altered character of the plots and to issue a revised *Khatian*. Upon no steps having been taken in that regard by the BL & LRO, a demand of justice was sent to the BL & LRO on April 18, 2024, further requesting to correct the LR RoR by deleting the endorsement in respect of Section 6(3) of the West Bengal Estates Acquisition Act, 1953 (in short, “the 1953 Act”).
7. In view of the alleged further inaction on the part of the BL & LRO on such request by the petitioner, Original Application (OA) no. 1908 of 2024 (LRTT) was moved by the petitioner before the West Bengal Land Reforms and Tenancy Tribunal. The Tribunal disposed of the OA on March 28, 2025, directing the BL & LRO to dispose of the representation dated February 2, 2024. The petitioner challenged the said order before this court in WPLRT No. 107 of 2025, which was disposed of on August 18, 2025, thereby setting aside the order of the Tribunal and directing it to decide the matter on merits, at the same time, setting aside the proposal for lease given by the DL & LRO, Hooghly.
8. Upon remand, the Tribunal, *vide* judgment dated March 18, 2026, dismissed the OA and also quashed the conversion order. Assailing the said judgment, the present writ petition has been filed.
9. Learned counsel appearing for the writ petitioner submits that both the petitioner and its predecessor-in-interest, one Ganges Valley Bone Mill Limited, were recorded as “Dakhalkar”, which is equivalent to “Non-Agricultural Tenancy” (NA Tenancy), thus taking the writ petitioner and its predecessor outside the purview of the 1953 Act. Learned counsel cites

Asrurekha Dutta vs. Diptimay Pal and Anr., reported at 1966 SCC OnLine Cal 110, in respect of the proposition that the term “Dakhalkar” means Non-Agricultural Tenant (NA Tenant).

10. It is submitted that NA Tenancies are transferable under Section 8(4)(ii) and Section 9(2)(ii) of the West Bengal Non-Agricultural Tenancy Act, 1949 (for short, “the 1949 Act”). NA Tenancies, it is contended, did not vest under the 1953 Act. In support of such proposition, learned counsel relies on the definition of the term “intermediary” in Section 2(i) of the 1953 Act and cites Section 2(a) of the 1953 Act, which defines “non-agricultural tenant”, as well as Section 4 of the said Act, as per which, unless a person is an “intermediary”, “*raiyat*” or “under-*raiyat*”, there is no vesting under the said Act.
11. Learned counsel for the petitioner next argues that Section 39 of the 1953 Act provides for the preparation of the RoR in terms of the said Act whereas under Rules 25 and 26 of the corresponding Rules of 1954, the procedure for such preparation has been laid down. Rule 26(b) mandates ascertainment of the class to which each tenant belongs, for the purpose of such preparation.
12. Thus, the finally published RoR under the 1953 Act, it is submitted, is the appropriate document to ascertain whether a person is an “intermediary”, “under *raiyat*”, or falls under any other class of tenants.
13. In the present case, the R.S. RoR did not record the status of the petitioner as “intermediary”, “*raiyat*” or “under *raiyat*”, thereby ruling out the applicability of the 1953 Act.

- 14.** The petitioner purchased the property on May 31, 1962 and was recorded in place of its vendor as “Dakhalkar”.
- 15.** According to the endorsement in the LR RoR, the entire properties have been retained under Section 6(3) of the 1953 Act in terms of a purported order dated October 7, 1964 of the L & LR Department (Reference no. 17670L), apparently in terms of a *suo moto* proceeding under Section 44(2a,) which was referred to as “*suo moto* 44(2a/464)”. It is argued that in view of the 1953 Act not being applicable, such endorsement is palpably illegal and contrary to the recording of the petitioner as “Dakhalkar” in most of the subject plots in the R.S. RoR.
- 16.** It is further contended that since the State failed to produce any order under Section 44(2a) of the 1953 Act at any stage of the proceedings, the very premise of such entry is vitiated.
- 17.** In support of his contentions, learned counsel for the petitioner cites the following judgments:
- (i) *Shibsankar Nandy vs. Prabartak Sangha and Ors.*, reported at AIR 1967 SC 940;
 - (ii) *BRC Construction Company Private Limited and Another vs. The State of West Bengal and Ors.*, reported at (2015) 3 CHN 658;
 - (iii) *Abhijit Tie UP (P) Ltd. v. State of W.B.*, reported at 2023 SCC OnLine Cal 3064;
 - (iv) *Nikhil Chandra Sanyal v. Khirrodabala Nag*, reported at 1979 SCC OnLine Cal 158.
- 18.** Learned counsel next argues that Section 182 of the Bengal Tenancy Act, 1885 (for short, “the BT Act”), has been wrongly applied by the learned

Tribunal to decide the issue of NA Tenancy. The said provision is not applicable in the present case at all.

19. It is further contended that with the promulgation of the WBLR (Third Amendment) Act, 1968 with retrospective effect from September 9, 1980, rights of NA Tenants and under tenants under the 1949 Act vested in the State on and from the said date, that is, September 9, 1980, under Section 3A of the West Bengal Land Reforms Act, 1955 (for short, “the 1955 Act”). Therefore, the petitioner’s predecessor-in-interest became a *raiyat* having ownership rights and was entitled to retain lands up to the ceiling limit prescribed under Section 14M of the 1955 Act. As a *raiyat*, the petitioner was also entitled to apply for conversion under Section 4C of the 1955 Act. Hence, the order of conversion dated January 2, 2018 in respect of 2.092 acres out of total 4.73 acres of land in favour of the petitioner was valid. Thus, it is argued, the learned Tribunal erred in law in holding that the conversion order was bad, by invoking Section 6(3) of the 1953 Act.
20. Addressing the applicability of Section 6(3) of the 1953 Act, learned counsel contends that the petitioner’s purchased land, The total land of 18.228 acres belonging to the petitioner’s vendor at the time of sale was comprised of lands, buildings as well as structures on the date of vesting under the 1953 Act. The State has never disclosed the quanta of land held by the vendor under each individual category within the contemplation of Section 6 of the said Act.
21. Even if the said property is treated to be a heterogeneous one, comprised of land, buildings etc., 18.228 acres would come under the ceiling limit for individual categories.

- 22.** In this regard, learned counsel points out that under Section 6(1), sub-clause (b), there is no ceiling limit for buildings and structures. Under sub-clause (a), homestead properties also have no ceiling limit. Retention of non-agricultural land in *khas* possession is permissible up to 15 acres under sub-clause (c) of Section 6(1) of the 1953 Act. The proviso thereto stipulates that a composite land under sub-clauses (a) and (b), comprised of buildings and structures as well as homestead is permissible to be retained up to 20 acres in total.
- 23.** Thus, under no stretch of imagination was the total land of the vendor, amounting to 18.228 acres, beyond the ceiling limit. As such, there arose no question of “retention” of the said land, which never vested in the State in the first place.
- 24.** Learned counsel further argues that no proceeding under Section 6(5) has been disclosed in the present case, which is mandatory in the event an intermediary does not exercise his/her choice for retention. Thus, there was no vesting in the eye of law under the 1953 Act at all.
- 25.** Learned counsel cites an unreported judgment in *Saregama India Limited vs. State of West Bengal and others (WPLRT 126 of 2023)* in support of the proposition that if the land is below the ceiling limit and retention is automatic, no further entitlement to retain is conferred by order under Section 6(3) of the 1953 Act. Thus, in such a case, an order under the said provision and under Section 6(1)(g) of the 1953 Act would merely be a surplusage and irrelevant.
- 26.** Learned counsel for the petitioner contends that the Tribunal proceeded on the premise that the ingredients of NA Tenancy have not been satisfied.

However, it was beyond the jurisdiction of the Tribunal to decide whether the land had the character of NA Tenancy. In Paragraph No. 22 of the purchase deed of the petitioner, leases in lands have been mentioned to be included under the First Schedule. Moreover, the only relevant document to decide the issue of NA Tenancy was the finally published R.S. RoR prepared under the 1953 Act in terms of the said Act, which did not disclose that the property was retained under Section 6(3).

- 27.** Learned counsel next submits that no appeal was required to be preferred against the order under Section 44(2a) of the 1953 Act, even if there was such an order, since the scope of the said provision is limited to revise the finally published R.S. RoR and, even after revision, the last position of the R.S. RoR reflected the status of the petitioner as “Dakhalkar”. Hence, the endorsement indicating retention under Section 6(3), subsequently introduced in the L.R. RoR, was without jurisdiction and a nullity, amenable to challenge even in a collateral proceeding.
- 28.** Learned counsel addresses the Guide and Glossary to Survey and Settlement Records of Bengal, 1917, relied on by the State, to submit that the term “Dakhalkar” has not been used for a tenant according to Section 4 of the BT Act. Therefore, a “Dakhalkar” is not an intermediary under the 1953 Act.
- 29.** Lastly, learned counsel relies on a Circular issued by the Land Department of the State of West Bengal *vide* Memo No. 6/4735/C/92 dated September 14, 1994. It is submitted that although the same does not have statutory force but is a guideline, in Paragraph No. 4 thereof, it is stipulated that all types of “Dakhalkar” tenants are entitled to hold the quantum of land in

their *khas* possession and that no land of any “Dakhalkar” of any type vested under the 1953 Act.

- 30.** Learned Senior Standing Counsel (SSC), appearing for the State, argues that the Records of Rights entry clearly reflects that the land was allowed to be retained under Section 6(3) of the 1953 Act, in terms of the LR Department’s Memo No. 17670L dated October 7, 1964, which was the date of disposal of the proceeding under Section 44(2a) of the 1953 Act.
- 31.** Neither the said order, nor the entry in the RoR, has been challenged by the petitioner or its predecessor-in-interest, thereby attained finality. The petitioner, it is submitted, purchased the land in the year 1962 and it is evident from the purchase deed that on the date of vesting under the 1953 Act, the petitioner’s predecessor-in-interest was running a mill/factory on the subject land. Therefore, the land was susceptible to come under Section 6(1)(g), read with Section 6(3), of the 1953 Act.
- 32.** Section 5(1) of the 1955 Act is to implement consequential action. However, without challenging the basic order, consequential orders cannot be challenged. In support of such contention, learned SSC cites *WPLRT 733 of 2004 [Sakhi Chand Mali @ Sakhi Chand Ram Vs State of W.B.]*.
- 33.** Learned SSC further argues that the absence of ceiling limit for lands, where mills/factories were being run at the time of vesting, signifies that any amount of land vested in the State as per Sections 4 and 5 of the 1953 Act could be retained only under Section 6(3) as per the opinion of the State. In the present case, the State had passed an order in respect of the petitioner’s predecessor and the petitioner, claiming through such predecessor, cannot take a contrary plea, either of the strength of the 1949 Act or the 1953 Act.

Section 5(1)(c) of the 1953 Act makes the land held by NA tenants subject to Section 6(3). Thus, holding of a land directly under the State by an NA tenant comes within the purview of Section 6(1)(g), read with Section 6(3) of the 1953 Act.

- 34.** Thirdly, the learned SSC argues that the term “Dakhalkar” means “possessor”, indicating the possessory rights of the petitioner to run a mill/factory. The said term is only illustrative and not exhaustive to NA tenancies. In the present case, the petitioner is only a conditional retainer with possessory rights for the specific purpose of running a mill/factory. The jural status of the petitioner is not governed by the 1949 Act, rather under Section 6(1)(g) and Section 6(3) of the 1953 Act. It is further pointed out that the RS RoR shows some of the plots of the petitioner as “Dakhalkar” and others as “Malik” and “Lakehraj”, the latter two being Chapter-II intermediaries under the 1953 Act.
- 35.** Learned SSC contends that the claim of the petitioner to be an NA tenant is also misplaced. Section 2(5) of the 1949 Act defines NA tenancies. Read with Sections 7 and 8 of the 1949 Act, such a tenancy right must be created with or without lease, the tenant being bound to pay rent.
- 36.** Again, Sections 46 and 47 of the 1949 Act, read with Rules 16 of the NA Tenancy Rules framed thereunder, lay down the procedure for issuance of receipt in detail, which is also reflected in Form-4 and Form-5 under the Rules. In the present case, no such document to show payment of rent against receipt by the petitioner or its predecessor-in-interest has been produced. Rather, the purchase deed of the petitioner suggests a sale and

not a lease. The deed also shows the existence of “mill” at the time of transfer.

- 37.** Section 5(1)(c) of the 1953 Act, it is reiterated, starts with “subject to Section 6(3)...”. The mere recording of a portion of the property under the head “Dakhalkar” cannot operate as a bar to proceed under Sections 6(1)(g) and 6(3). Section 2(p) of the 1953 Act provides that expressions not defined in the Act would have the same meaning as the BT Act in areas where it applies and in other areas, would be similar to existing law relating to land tenures. The Guide and Glossary of 1917, at Page No. 31 thereof, provides that “Dakhalkar” is an occupant or possessor of an interest and not a tenant under Section 4 of the BT Act. Therefore, neither the petitioner nor its predecessor has ever been a tenant in respect of the disputed property.
- 38.** On the contrary, the terms “Malik” and “Lakehraj” have been defined as “landlord” and “rent-free” respectively.
- 39.** It is next contended that the conversion order dated January 2, 2018, passed by the DL & LRO, Hooghly, was without jurisdiction, since the petitioner’s predecessor, and thereafter the petitioner, were allowed to retain the land for the specific purpose of running a mill/factory under Section 6(3) and cannot be used for any other purpose. There cannot be any estoppel against the law if a conversion order is passed in violation of Section 6(3).
- 40.** Importantly, the conversion order itself, in Clause (4), gives the permission to convert “without prejudice to Section 6(3)”. Hence, such conversion order itself is contradictory.
- 41.** Learned SSC next submits that none of the citations relied on by the petitioner lay down any universal law that “Dakhalkars” are NA tenants.

None of the said judgments consider the NA tenancy ingredient or Sections 7 and 8 of the 1949 Act and Sections 46 and 47 thereof, read with Rule 16 of the NA Tenancy Rules, which mandate that an NA tenancy has to be accompanied by payment of rent, evinced by rent receipts. A “Dakhalkar” can only be an NA tenant if he/she fulfils the primary obligation that a tenancy right has been created and he/she has been paying rent. In the present case, in view of none of such foundational facts being proved, the case of exemption on the ground of NA tenancy, sought to be made out by the petitioner, fails.

- 42.** Learned SSC, dealing with the Circular dated September 14, 1994 relied on by the petitioner, submits that the same is an Executive instruction and cannot override or alter statutory provisions; in case of any conflict between the two, the statutory provisions will prevail. Reliance is placed in this regard on *O.P. Lather and others v. Satish Kumar Kakkar and others*, reported at (2001) 3 SCC 110, and *DDA and others v. Joginder S. Monga and others*, reported at (2004) 2 SCC 297.
- 43.** It is also submitted by the State that the said Circular, although sought to clarify that all NA lands belonging to erstwhile intermediaries and rights shall vest (if found an excess) to the State with effect from February 15, 1971 under Section 14S of the 1955 Act, however, in Clause (1), it has been stated that Section 3A of the 1955 Act applies only to those NA tenants who were outside the jurisdiction and provisions of the 1953 Act and guided by the 1949 Act. in the present case, the lands-in-question stood vested in the State and the predecessor-in-interest of the petitioner was allowed to retain the same in terms of Section 6(3) of the 1953 Act as per the LR department

Memo No. 17670L dated October 7, 1964, which has been duly recorded in the relevant RoR and accepted by the petitioner and its predecessor.

- 44.** Thus, the said Circular is not applicable to the present case.
- 45.** Upon hearing learned counsel for the parties, the Court arrives at the following conclusions:
- 46.** The appellant has raised two primary questions – first, whether the subject-plots of land come within the purview of Section 6(3) of the 1953 Act, and secondly, whether the appellant, being recorded as a “Dakhalkar”, should be construed as a non-agricultural tenant, thus being outside the purview of the 1953 Act.
- 47.** In order to answer the first question, it is required to be noted that vesting under the 1953 Act is primarily governed by three key provisions of the said Act – Sections 4, 5 and 6 - which contain the entire matrix of vesting under the 1953 Act. As per Section, 4, read with Section 5, vesting is automatic, upon due publication of notification under Section 4, the effect of which is that the estates and the rights of the intermediaries in the estates to which the declaration applies vest in the State free from all incumbrances. However, such vesting is circumscribed by the right of retention of certain categories of lands by an intermediary under Section 6 of the said Act. Section 6(1) begins with a *non obstante* clause, thus making the vesting under Sections 4 and 5 subject to retention under Section 6.
- 48.** The 1953 Act came into force on and from February 12, 1954. Sub-section (3) of Section 6 as well as Clause (g) of Section 6(1), in their present form, were subsequently introduced by way of amendment with retrospective

effect. The petitioner purchased the property on May 31, 1962, after coming into force of the 1953 Act.

49. Section 6(1)(g) permits an intermediary to retain lands comprised in mills, factories or workshops, subject, however, to the provisions of sub-section (3) of Section 6.
50. Sub-section (3) stipulates that in case of land comprised in a tea garden, mill, factory or workshop, the intermediary shall be entitled to retain *only so much of such land as, in the opinion of the State Government, is required for the tea garden, mill, factory or workshop, as the case may be.*
51. Thus, insofar as a mill, factory or workshop is concerned, only so much of the land as is permitted to be retained as is required for the same in the opinion of the State Government. Thus, by default, land comprised in a mill, factory or workshop vests in the State, excepting so much of such land as opined by the State Government to be required for such purpose.
52. In *BRC Construction Company Private Limited (supra)*¹, it was held by a Division Bench of this Court that a land with structure cannot be resumed under Section 6(3) if it comes within the ceiling limit under Section 6(1)(b), in cases where the land is comprised in or appertains to buildings and structures, even if Section 6(3) applies. Again, in *Saregama India Limited (supra)*², it was held that if there is an automatic retention under Section 6(1), Clauses (b) or (c), an order under Section 6(3) is a surplusage and no further retention order is required.

¹ *BRC Construction Company Private Limited and Another vs. The State of West Bengal and Ors.*, reported at (2015) 3 CHN 658

² *Saregama India Limited vs. State of West Bengal and others (WPLRT 126 of 2023)*

- 53.** On the other hand, in *Sakhi Chand Mali @ Sakhi Chand Ram (supra)*³, it was held that a notice under Section 10(2) of the 1953 Act, pertaining to a written order by a Collector requiring any intermediary to give up *khas* or symbolic possession, cannot be challenged unless the vesting order itself is challenged. Although Section 10(2) is not attracted in the present case, the principle embodied in the said judgment holds true, to the effect that unless the parent order of vesting and/or an order of retention passed under Section 6(3) or the entry in the LR RoR recording the same is challenged, such retention cannot be reopened in a subsequent proceedings.
- 54.** From the purchase deed of the petitioner, produced by it, it is evident that the description of the subject land shows the existence of a factory shed, railway sidings, godowns and related fittings and fixtures over the land, thus bringing the property within the purview of Section 6(1)(g) and Section 6(3) of the 1953 Act, the land being comprised in mills, factories or workshops. It is an admitted position that the predecessor-in-interest of the petitioner as well as the petitioner, before and after the petitioner's purchase, have been running a mill/factory on the subject-plots.
- 55.** In *State of West Bengal & Ors.v. Star Iron Works Ltd. & Ors.*, reported at 2012 SCC OnLine Cal 3127, it was held that Section 6(3) applies only if a mill is operational and functional on the date of the vesting. In the present case, not only was the mill admittedly operational on the date of the vesting but also subsequently, at the instance of the petitioner.
- 56.** From the LR RoR, it is evident that the subject-land was retained under Section 6(3) of the 1953 Act. The particulars of the proceedings and date of

³ WPLRT 733 of 2004 [*Sakhi Chand Mali @ Sakhi Chand Ram Vs State of W.B.*]

the order under Section 6(3) have also been referred to in the concerned entry in the LR RoR, indicating further that a proceeding was initiated under Section 44(2a) of the 1953 Act. A presumption of correctness is attached to such entry, which is applicable to all official acts. Although an order passed long back under Section 6(3) may not be possible to be produced by the State, in the absence of any cogent rebuttal to the same, the presumption attains an element of conclusiveness. In the present case, the petitioner has not made out any case of it or its predecessor having ever assailed the order under Section 6(3) before any competent forum. Mere non-reflection of the existence of such order in the RS RoR does not necessarily vitiate the order itself, the particulars of it having been clearly depicted in the LR RoR.

- 57.** On a composite reading of the ratio laid down in *BRC Construction Company Private Limited (supra)*⁴ and *Saregama India Limited (supra)*⁵ in the light of the relevant provisions, that is, Section 6(1)(g) and Section 6(3) of the 1953 Act, it will be evident that if there is an overlap between Clauses (b) and (g) of Section 6(1), the latter will prevail insofar as the land comprised exclusively in a mill or factory is concerned. In *BRC (supra)*⁴, the coordinate Bench was considering a case where a land is comprised in or appertaining to buildings and structures, coming within the purview of Section 6(1)(b). Since the said language is wider than the expression “comprised in” used in Section 6(1)(g), it was held that land appertaining to buildings or structures would be automatically retained, without Section 6(3) affecting the same.

⁴ *BRC Construction Company Private Limited and Another vs. The State of West Bengal and Ors.*, reported at (2015) 3 CHN 658

⁵ *Saregama India Limited vs. State of West Bengal and others (WPLRT 126 of 2023)*

- 58.** A harmonious construction of the *ratio decidendi* of *BRC (supra)*⁴ and *Saregama India Limited (supra)*⁵ with the provisions of the statute would clearly indicate that insofar as the property is comprised in or appertains to buildings and structures simpliciter, the same would come within the paradigm of Clause (b) of Section 6(1), whereas the portion thereof which is exclusively comprised in a mill or factory would be governed by Clause (g) of Section 6(1).
- 59.** Any contrary interpretation would render Clause (g) nugatory as all mills, factories and workshops are necessarily operated from buildings and structures. Thus, if Clause (b) of Section 6(1) is deemed to override Clause (g), the latter would be rendered redundant and completely nugatory. It is trite law that no word used by the Legislature in a statute is to be presumed to be meaningless or superfluous. Hence, a harmonious construction of Clauses (b) and (g) of Section 6(1) would unerringly indicate that in the event a large tract of land contains portions comprised of or appertaining to buildings and structures simpliciter and a different part thereof is comprised exclusively in mills and factories, there has to be a segregation between the two and the portion comprised in mills and factories will come under the ambit of Clause (g) of Section 6(1), read with Section 6(3), whereas the portion having buildings and structures without any mill or factory would be governed by Clause (b) of Section 6(1). On the other hand, a vacant land, if also a part of the said property, would either come within Clause (c) of Section 6(1), if non-agricultural in nature and in *khas* possession of the intermediary, or Clause (d), if agricultural land in *khas* possession, the respective ceiling limits for each of the categories being applicable.

- 60.** Seen from the said perspective, the reference to an order passed under Section 6(3) in the LR RoR in the present case necessarily implies that the entire land purchased by the petitioner was permitted to be retained under Section 6(3), hence raising a presumption that the entirety of the same was comprised in mills, factories or workshops under Section 6(1)(g). In the absence of any rebuttal, such pre-supposition attains conclusiveness. Once an exercise is undertaken under Section 6(3) and an order is passed permitting retention of a land as a mill/factory/workshop, the necessary implication is that the same is entirely comprised of a mill or factory and the issue cannot be reopened subsequently unless such order, or the consequential recording in the RoR, is specifically challenged and set aside.
- 61.** Hence, the entire purchased property of the petitioner cannot but be deemed to have been retained under Section 6(3) of the 1953 Act.
- 62.** The next question which crops up is whether the recording of the petitioner's name as "Dakhalkar" in respect of the subject-property would automatically give rise to the presumption that the petitioner and its predecessor were non-agricultural tenants, thus going outside the ambit of vesting under the 1953 Act.
- 63.** From the definition of "non-agricultural tenant" in Section 2(k) of the 1953 Act, we find that the term means a tenant of non-agricultural land who "holds under a proprietor, a tenure-holder, a service tenure-holder or an under-tenure holder". Thus, a pre-requisite of such a tenancy is that the land has to be *held under a person* superior in hierarchy of land tenure holders. Again, from the definition of the said term in the 1949 Act, it is seen that *payment of rent* is a prerequisite to establish non-agricultural

tenancy. Section 2(5) of the 1949 Act stipulates that a non-agricultural tenant is a person who holds a land *under another person* and is *liable to pay rent*.

64. Although the 1953 Act defines “non-agricultural tenant”, the definition of “intermediary”, whose property would vest under the 1953 Act, excludes by implication non-agricultural tenants from the purview of “intermediary”, since an intermediary *above* a non-agricultural tenant would only qualify as “intermediary” under the 1953 Act. Thus, the term “non-agricultural tenant” in the 1953 Act has only been defined in such limited context, whereas the genesis of the term lies in the 1949 Act, which, for the first time, recognized such status of land holders. Hence, in order to ascertain the true purport of the term “non-agricultural tenant”, we are to look at the definition of the term in the 1949 Act. In fact, the writ petitioner cannot claim better title than its vendor, which was admittedly carrying on business as owner in the subject plots of land from prior to coming into force of the 1953 Act. Thus, for the writ petitioner to acquire the status of “non-agricultural tenant”, its predecessor-in-interest already had to have such status under the 1949 Act regime in the first place.

65. As discussed above, in order to be a “non-agricultural tenant” under the 1949 Act, two foundational criteria are to be met:

- (i) The land has to be held under another person; and
- (ii) Rent has to payable to such person for the land.

66. The requirement to hold under another person, as stipulated in the 1949 Act, is retained in the definition of the said term even under the 1953 statute. Although the 1953 Act definition does not specifically incorporate

the criterion of payment of rent, such requirement was a *sine qua non* in the 1949 Act, during which regime the petitioner's predecessor-in-interest originally held the land.

- 67.** In the present case, not a single rent receipt or any other document has been produced by the petitioner to show that the petitioner or its predecessor-in-interest has held the land under a superior lessor or have ever paid any rent in respect of the subject lands. Rather, the purchase deed of the petitioner clearly shows that the petitioner purchased ownership/proprietary rights from its predecessor, and not tenancy rights.
- 68.** We also take note from the materials on record that, in respect of some of the plots which are the subject-matter of the present *lis*, the terms “Malik” and “Lakheraj” have been used to define the status of the appellant and its predecessor-in-interest. As per the Guide and Glossary to Survey and Settlement Records in Bengal, 1917, relied on by the State, the expression ‘Malik’, means ‘proprietor’, whereas “Lakehraj” (alternatively, “Lakhiraj”) means “rent-free” or “revenue-free”. Thus, the use of the said expressions also go on to indicate that the appellant and its predecessor had proprietary rights, as opposed to non-agricultural tenancy rights, in respect of at least some of the subject-plots.
- 69.** Continuing with the discussion on whether a “Dakhalkar”, *per se*, means “non-agricultural tenant”, the appellant has cited certain judgments in support of such proposition. However, the said reports do not come to the aid of the appellant.

- 70.** In *Asrurekha Dutta (supra)*⁶, the Court observed that a “Dakhalkar” holding on the basis of *pattah* and paying rent is a non-agricultural tenant. Hence, the expression “Dakhalkar” was interpreted in the context of payment of rent to a superior land tenure-holder to mean non-agricultural tenant. Hence, the expression “Dakhalkar”, which literally means “occupant”, *per se* need not necessarily mean “non-agricultural tenant”. Whereas all non-agricultural tenants may potentially be recorded as “Dakhalkars” in the RoR, the converse is not true, that is, all “Dakhalkars” are not necessarily non-agricultural tenants. As opposed to the facts of *Asrurekha Dutta (supra)*⁶, in the present case, not a scrap of document has been produced to indicate that the appellant or its predecessor had ever paid rent or held the subject-plots under a superior lessor. Hence, the said judgment does not support the appellant’s contention.
- 71.** In *Shibsankar Nandy (supra)*⁷ as well, the concerned person was observed to hold under a lease, thus bringing the said person within the purview of the term ‘non-agricultural tenant’. Contrary thereto, in the present case, it has not been proved that the appellant or its predecessor ever held the subject plots under a lease. Rather, the purchase deed of the appellant clearly shows that it was the ownership rights of its predecessor that was transferred to the appellant.
- 72.** Again, in *Abhijit Tie Up (P) Ltd. (supra)*⁸, a co-ordinate Bench of this Court had merely held that non-agricultural tenants have been kept outside the purview of the 1953 Act. There is no quarrel with such proposition at all.

⁶ *Asrurekha Dutta vs. Diptimay Pal and Anr.*, reported at 1966 SCC OnLine Cal 110

⁷ *Shibsankar Nandy vs. Prabartak Sangha and Ors.*, reported at AIR 1967 SC 940

⁸ *Abhijit Tie UP (P) Ltd. v. State of W.B.*, reported at 2023 SCC OnLine Cal 3064

However, the question is whether the appellant in the present case was at all a non-agricultural tenant.

- 73.** In *Nikhil Chandra Sanyal (supra)*⁹, the facts of the case, as reflected from the judgment, were that rent was initially payable and was subsequently redeemed by remission to pay future rent upon payment of a lump-sum amount. It was also held that the land was in the nature of *khas mahal*, the Government standing on the footing of a proprietor. In the present case, however, no case of any rent being payable by the appellant has been made out.
- 74.** On the other hand, in *WPLRT 26 of 2013 [Prabir Sen & Ors. v. State of WB & Ors.]*, a co-ordinate Bench of this Court held that the person concerned was a “Dakhaldar”, whereas there was nothing to show that he was a tenant under the State. As such, the case of non-agricultural tenancy was disbelieved by the Court, thereby lending support to the proposition that merely by being recorded as a “Dakhaldar” / “Dakhalkar”, a person does not become a non-agricultural tenant automatically.
- 75.** In *Kinuram Sadhukhan and anr. v. Hazi Md. Yusuf and anr.*, reported at 1958 SCC OnLine Cal 138, a Division Bench of this Court was considering whether the concerned persons were non-agricultural tenants. However, the said judgment did not lay down any proposition of law apt in the context of the present case. The Division Bench, in the facts of the said case, observed that whereas, according to the definition of non-agricultural tenancy, the land must by itself constitute an independent unit of tenancy, in the said case, it was not proved that the plots which were held by the person were

⁹ *Nikhil Chandra Sanyal v. Khirrodabala Nag*, reported at 1979 SCC OnLine Cal 158

exclusively related to non-agricultural land. In view of there being no segregation between non-agricultural and agricultural lands held, the non-agricultural land was held, by itself, not to constitute the subject-matter of a separate tenancy and was found to be merely a fraction of lands held partly for agricultural and partly for non-agricultural purposes, in which context it was observed that the tenant holding such a land cannot be said to be a non-agricultural tenant. Thus, the said judgment, cited by the State, is not germane for the present consideration.

- 76.** However, on a composite reading of the ratio laid down in the above judgments as well as on an independent interpretation on the concerned provision, as discussed above, it is clear that the foundational prerequisites of a non-agricultural tenancy, being that the concerned person is a lessee under a superior lessor and paid rent, have not been established at all insofar as the present appellant and its predecessor-in-interest are concerned. Rather, the purchase deed of the appellant shows that the proprietary/ownership rights were transferred to the appellant.
- 77.** Thus, the appellant does not come within the purview of ‘non-agricultural tenancy’, to claim exemption from the operation of vesting under the 1953 Act.
- 78.** The appellant seeks to rely on a Circular, bearing Memo No. 6/4735/C/92 dated September 14, 1994, to argue that a “Dakhalkar” is a non-agricultural tenant. However, as held in *O.P. Lather (supra)*¹⁰ and *DDA (supra)*¹¹, if there is a conflict between Executive instruction and statutory provisions, the latter will prevail. Thus, the aforesaid Government Circular, being

¹⁰ *O.P. Lather and others v. Satish Kumar Kakkar and others*, reported at (2001) 3 SCC 110

¹¹ *DDA and others v. Joginder S. Monga and others*, reported at (2004) 2 SCC 297

administrative in nature, cannot override the provisions of the 1953 Act and, thus, is irrelevant for the present consideration.

- 79.** In the light of the above findings, we come to the conclusion that the appellant's argument that it is excluded from the operation of the 1953 Act, on the ground that it is a non-agricultural tenant, cannot be accepted in view of the essential tests of a non-agricultural tenancy not being satisfied by the appellant.
- 80.** As held above, since the concerned lands were retained as mill/factory/workshop under Section 6 (1) (g), read with Section 6 (3), of the 1953 Act, the conversion order permitting user of the land for other purpose was palpably without jurisdiction; thus, a nullity.
- 81.** In view of the above, the learned Tribunal was justified in holding that the order of conversion passed in favour of the appellant under Section 4(c) of the 1955 Act was a nullity, being without jurisdiction in view of the land having been originally retained under Section 6(3) of the 1953 Act for the specific purpose of operating a factory/mill thereon and not being amenable to conversion.
- 82.** Consequentially, the prayer of the appellant to correct the LR Records of Rights, in respect of the subject-land on the basis of the conversion order dated January 2, 2018, was rightly dismissed by the learned Tribunal.
- 83.** Thus, the present writ petition fails.
- 84.** Accordingly, W.P.L.R.T. No. 137 of 2026 is dismissed on contest, thereby affirming the impugned judgment dated March 18, 2026, passed by the Fourth Bench, West Bengal Land Reforms and Tenancy Tribunal, in OA No. 1608 of 2024 (LRTT).

- 85.** There will be no order as to costs.
- 86.** Interim order, if any, stands vacated.
- 87.** Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Sandip Kumar De, J.)