Form No. J(2)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

WPLRT 129 of 2025

Abdul Hakim Mondal and others
Vs.
The State of West Bengal and others

For the petitioners	:	Mr. Mokaram Hossain, Mr. Asit Baran Ghosh, Ms. Komal Singh
For the State	:	Mr. Sk. Md. Galib, Ld. Sr. Govt. Adv., Mr. Samim Ul Bari
Heard on	:	21.08.2025
Judgment on	:	21.08.2025

Sabyasachi Bhattacharyya, J.:-

1. The present challenge has been preferred against an order passed by the West Bengal Land Reforms and Tenancy Tribunal, whereby the Tribunal turned down an application filed by the writ petitioners alleging inaction on the part of the concerned B.L. & L.R.O in not

correcting the records of rights, thereby reflecting the adjudication made in favour of the petitioners' predecessor-in-interest by a competent civil court.

2. Learned counsel for the petitioners submits that the civil court's decree was a contested one and never challenged before any competent appellate court. As such, the same has attained finality.

3. Accordingly, the subsequent exercise undertaken by the State in issuing a fresh notice under Section 14T(3) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as "the 1955 Act") was bad in law and the B.L. & L.R.O had to honour the decree of the civil court. Learned counsel cites a coordinate Bench judgment of this Court in the matter of *Pashupati Das vs. Block Land and Land Reforms Officer*, reported at *2011 (3) CHN (Cal) 13* in support of such proposition.

4. Learned Senior Government Advocate controverts the allegations made on behalf of the petitioners and submits that although the civil court's decree was passed in favour of the predecessor-in-interest of the present writ petitioners, subsequently a notice was issued under Section 14T(3) of the 1955 Act by the appropriate authority. The notice was challenged at the first instance in a writ petition before this Court which was allowed, thereby setting aside the notice but relegating the predecessor-in-interest of the petitioners to the self-same forum. Subsequently, the predecessor-in-interest of the

petitioners submitted to the jurisdiction of the B.L. & L.R.O and there was a competent adjudication under Section 14T(3) of the 1955 Act.

5. After the demise of the predecessor of the writ petitioners, another notice was issued, purportedly under Section 14T(3) of the said Act, read with the governing rules of the connected Rules, on the writ petitioners.

6. The said notice was also challenged at the first instance but in this case as well, the writ petitioners were relegated to the appropriate authority. However, learned Senior Government Advocate submits that he is not properly instructed as to the outcome of the second round of Section 14T(3) proceedings.

7. Learned Senior Government Advocate cites a Division Bench judgment of this Court in the matter of *Smt. Chabi Rani Pal and Others vs. State of West Bengal & Another,* reported at *2022 (1) CLJ (Cal) 178*, for the proposition that the civil court is not competent to decide whether a land has vested in a person.

8. Learned Senior Government Advocate also cites the judgment of *State of West Bengal vs. Hari Mohan Dana (Dead) by Lrs. and others,* reported at *(2008) 17 SCC 66*, in support of the self-same proposition.

9. Whereas in the Division Bench judgment the bar under Section 14X of the 1955 Act was being discussed, in the judgment of the Supreme Court, indicated above, the bar under Section 61 of the 1955 Act was under consideration. However, it is submitted that the proposition of law remains the same in both, to the effect that the civil court is not

the competent forum to decide such proceedings, regarding which the authorities under the 1955 Act are categorically vested with the power.

10. Learned Senior Government Advocate then cites *Escorts Farms Ltd., previously known as M/s Escorts Farms (Ramgarh) Ltd. vs. Commissioner, Kumaon Division, Nainital, U.P. and others,* reported at *(2004) 4 SCC 281*, where it was held by the Hon'ble Supreme Court that the plea of *res judicata* has been held to be barred in proceedings under Ceiling Law.

11. Citing the said report, in particular paragraph nos. 50(2) to 56 thereof, learned Senior Government Advocate categorically argues that the principle of *res judicata* being not applicable to Ceiling Acts, as held by the Supreme Court, the decree of the civil court cannot be construed to be binding, in order to deter the appropriate authorities under the 1955 Act from reopening the proceedings.

12. Upon a careful consideration of the arguments of the parties, we find ourselves unsure as to whether a second exercise could be undertaken by the State authorities under Section 14T (3) of the 1955 Act in respect of the present writ petitioners, once a conclusive order was passed under the self-same provisions in respect of self-same land with regard to the predecessor-in-interest of the writ petitioners.

13. Although Section 14(3A) of the said Act permits the Revenue Officer to do so, the notice issued at the second instance was under Section 14(3).

14. The "wrong caption" theory does not apply, since a specific substantive provision of law was categorically assumed by the authorities in issuing the notice.

15. We also take note of the fact that although sub-sections (5) to (8) of Section 14T of the 1955 Act have been protected in respect of the operation of the principle of *res judicata* by sub-section (9) of Section 14T of the 1955 Act, the said protection, by necessary implication, has not been extended to proceedings under Section 14T (3) of the said Act. Be that as it may, since we are not apprised as to the outcome of the second proceedings, these questions should be, in any event, left to be argued by the writ petitioners before the appropriate authority and we desist commenting on the same on merits.

16. However, the more disturbing feature of the matter is that the State, despite suffering a civil court's decree, never preferred an appeal against the same. The judgment of the Division Bench in the matter of *Chabi Rani Pal (supra)* was in connection with an appeal preferred against a civil court's decree. The Division Bench held in the said judgment that the objection as to subject-matter jurisdiction hits at the root of the jurisdiction of the court and can be taken at any point of time, even if not taken at the first instance before the trial court. However, we cannot lose sight of the fact that the challenge before the Division Bench was against the civil court's decree itself and while sitting in appeal, the appellate court has extensive powers under various provisions, including Section 107, Order XLI Rule 22 and

Order XLI Rule 33 of the Code of Civil Procedure, permit it to deal with all issues and passing any further and other decree than the trial court as it deems fit. Whether such luxury is available to the B.L. & L.R.O or this Court, in the absence of a challenge to the civil court's decree, is to be considered.

17. Insofar as the judgment rendered by the Supreme Court in *Hari Mohan Dana's* case *(supra)*, the same logic as recorded by us above applies, since the challenge pertained to a decree passed by civil court in the first instance.

18. Thus, we are of the opinion that those judgments are not binding precedents insofar as the present question is concerned, as to whether such a decree, passed by a civil court without jurisdiction, amounts to a nullity which can be avoided even without challenging the same in appeal.

19. The judgment of *Escorts Farms Ltd. (supra)*, cited by learned Senior Government Advocate, considers the objects of the "the Ceiling Act" while considering the scope of a particular statute. While holding so, it was observed that proceedings under the Ceiling Act are not adversarial as are proceedings in suit. It was observed by the Hon'ble Supreme Court that the laudable social objectives sought to be achieved by the ceiling legislation is to take surplus land from the holders and distribute the same to the landless agricultural labourers and peasants surviving on agriculture. It was observed specifically that in applying the principle of *res judicata*, therefore, to the ceiling

proceedings, the object of the Act cannot be lost sight of. The Supreme Court categorically observed that "all principles" of *res judicata* contained in Section 11, CPC cannot be "strictly and rigorously" made applicable to ceiling proceedings. However, the premise of such observation was in context of a particular statute and not any ceiling law in general. More importantly, the Supreme Court did not observe that the principle of *res judicata* was barred in a blanket fashion in respect of all statutes where ceiling limits are the subject-matter of the legislation. The reason for the same can be found from the context of the cited judgment, which was in respect of whether Section 38B, introduced by an amendment of 1976 in the statute under consideration there, was valid, since it imposed a bar on the plea of *res judicata* in proceedings under the said Act. In such context, the Supreme Court rendered the above observations.

20. A similar *pari materia* situation would have arisen if the *vires* of Section 14T (9) of the 1955 Act was under challenge before us, where the Supreme Court's said proposition would be completely germane. However, sub-section (9) of Section 14T categorically protects only orders or action taken under sub-sections (5) to (8) of the said Section, therefore, by necessary implication, omitting to extend the benefit of avoidance of *res judicata* in respect of other sub-sections, including Section 14T (3) of the Act, under which the second notice was issued. The said judgment, in our case, might have been relevant in the context of the subsequent proceedings initiated against the

present writ petitioners, but is not germane for the question at hand, which is whether the decree of a civil court operates as *res judicata* in a subsequent land ceiling proceeding.

21. Moreover, in *Escorts Farms Ltd. (supra)*, the Supreme Court was considering an *inter se* operation of *res judicata* in the sense whether an order of the appropriate authority under the Ceiling Act would operate as *res judicata* in a subsequent proceeding by the self-same authority under the self-same statute. Here, however, we are dealing with the decree passed by a regular civil court, which is not covered by the principle laid down in the *Escorts Farms* case.

22. While considering the same, we cannot overlook Section 11 of the Code of Civil Procedure itself, which categorically preserves the operation of *res judicata* if the civil court which passed the initial decree was "competent" to pass the same.

23. The expression "competent" cannot be lightly taken, since, if construed too liberally, it would take away the valuable right of *res judicata* accruing in favour of a party to a decree, as embodied in the Code of Civil Procedure.

24. There are several sorts of objections to jurisdiction, primarily divided into three categories - territorial, pecuniary and subject-matter.

25. Whereas territorial and pecuniary jurisdictions and objections related thereto are to be decided at the outset of the suits or proceedings, as embodied in the scheme of the Code of Civil Procedure itself, the same principle cannot be applied to subject-matter jurisdiction, which hits

at the core of the adjudication and renders a decree passed by a civil court, which is incompetent to do so, a toothless decree which is vitiated by inherent lack of jurisdiction, rendering the same a nullity.

26. Since Section 9 of the Code of Civil Procedure explicitly excludes the jurisdiction of the civil court if there is an express or implied bar in a statute and as both Section 14TX as well as Section 61 of the West Bengal Land Reforms Act, 1955 creates specific bar to the assumption of jurisdiction by civil courts where the said statute empowers the authorities under it to exercise such power, the said bar is an express bar coming within the purview of Section 9 of the Code of Civil Procedure, thereby debarring a civil court from passing such a decree which enters into and transgresses into the domain of the power vested in the authorities under the 1955 Act.

27. In the present case, thus, the decree obtained by the predecessor-in-interest of the writ petitioners, which was vitiated by patent lack of inherent jurisdiction (subject-matter jurisdiction), is a nullity and could have been avoided by anyone and everyone even without challenging the same by way of an appeal. We would have held otherwise if the error was a mere error of law. However, since the civil court did not have subject-matter jurisdiction, it was not competent within the ambit of Section 11 of the Code of Civil Procedure and the decree does not operate as *res judicata* between the parties and/or before any forum.

28. A second aspect is also to be looked into. The predecessor-in-interest of the present writ petitioners, despite having the said civil court's decree in his favour, subsequently submitted to the jurisdiction of the concerned Revenue Officer and had an adjudication under Section 14T (3) of the West Bengal Land Reforms Act, 1955. After having done so, the present writ petitioners, the heirs of the said person who participated in the adjudication, cannot reopen the issue by taking advantage of a null civil court's decree.

29. Hence, the implementation of the civil court's decree sought by the writ petitioners was barred on two counts – first, the decree itself was a nullity and second, the predecessor-in-interest of the writ petitioners had suffered an order of vesting under Section 14T (3) of the 1955 Act passed by a competent forum subsequent to such decree, where he had participated.

30. In such view of the matter, we are of the opinion that the learned Tribunal was justified in refusing to grant the relief sought by the writ petitioners by directing the B.L. & L.R.O to give effect to the civil court's decree by effecting the necessary corrections in the records of rights in terms of the decree.

31. In such view of the matter, we are unable to accept the contention of the petitioners that the learned Tribunal erred in law or in facts.

32. Accordingly, WPLRT 129 of 2025 is dismissed on contest, thereby affirming the judgment and order dated May 14, 2025 passed by the

Fourth Bench of the West Bengal Land Reforms and Tenancy Tribunal in O.A. No. 592 of 2024 (LRTT).

33. There will be no order as to costs.

34. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)

AD-07
TN

D/L.4.
August 26, 2025.
MNS.

WPLRT No. 129 of 2025

Abdul Hakim Mondal and others
Vs.
The State of West Bengal and others

Md. Mokaram Hossain,
Md. Naimul Islam,
Mr. Asit Baran Ghosh

… for the petitioners.

Sk. Md. Galib, Ld. Sr. Govt. Adv.,
Mr. Samim Ul Bari

…for the State.

1. Learned Senior Government Advocate, appearing for the State, rightly points out that two typographical errors crept into the judgment dated August 21, 2025.
2. In paragraph no. 11 of the same, instead of paragraphs “52 to 56”, it was erroneously recorded as “50(2) to 56”.
3. In paragraph no. 26 of the judgment, “Section 14X” was erroneously mentioned as “Section 14TX”.
4. The said errors be deemed to stand corrected accordingly.
5. Let this order be deemed to be a part of the judgment dated August 21, 2025.

(Uday Kumar, J.) (Sabyasachi Bhattacharyya, J.)