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**(2008) 07 CAL CK 0063**  
**In the Calcutta High Court**  
**Case No : WPLRT No. 860 of 2003**

Rani Bala Jana and Others APPELLANT  
Vs  
State of West Bengal and Others RESPONDENT

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**Date of Decision :** 08-07-2008

**Acts Referred:**

West Bengal Land Reforms Act, 1955 — Section 14T(10), 14T(3), 14T(5)

**Citation :** (2008) 4 CHN 460

**Hon'ble Judges :** Prasenjit Mandal, J;K.J. Sengupta, J

**Bench :** Division Bench

**Advocate :** Ashok Kumar Maity, Prabir Kumar Mishra and Amitava Roy, for the Appellant;A.N. Banerjee and Ziaul Islam, for the Respondent

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## **Judgement**

1. By this application, the judgment and order dated 26th September, 2003 is impugned. The fact of the case is that in or about 1996, the State respondents, initiated a proceedings u/s 14T(3) read with Section 14T(10) of the West Bengal Land Reforms Act, 1955 (Thereinafter referred to as the said Act). The said proceedings was challenged before this Court. By judgment and order dated 8th October, 1996, learned Single Judge of this Court had set aside the said proceedings and the order of vesting was also quashed. While doing so, the following direction was given:

If any return in 7AA has been filed in pursuance to this Hon''ble Court's earlier order that also has become redundant in view of the decision of the Division Bench judgement as referred to above and the said return also should not be given effect to.

Pursuant to the order passed in 7AA proceeding if any settlement has been made and/or Patta has been granted in favour of any person, the authority concerned should take proper step for immediately annulment of the said Patta and should hand over possession of the land to the petitioner thereafter forthwith.

2. It appears, in spite of the Said order being passed, no action was taken. So,

another writ petition was filed in this Court being W.P. No. 12229(W) of 1999. The said writ petition was disposed of by an order dated 13th July, 1999, directing the State respondents to consider the application made by the petitioner for correction of the record-of-rights in respect of the lands in question which has not yet been considered by the respondent concerned.

3. The aforesaid order was also not carried out. Ultimately, the Block Land and Land Reforms Officer had passed an order negating the order passed earlier by His Lordship the Hon''ble Justice N.K. Mitra (as His Lordship then was). It is to be noted that the judgment and order of Hon''ble Justice Mitra (as His Lordship then was) has not been appealed against and the mandate is very clear. In spite as aforesaid, the learned Tribunal by its impugned judgment and order, recording the history of the case, passed the following order:

We find no infirmity in the proceeding and we have no hesitation to hold that the proceeding being 7AA case No. 59/94 is unassailable in the eye of law. But the difficulty in this case is that the proceeding has been set aside by the Hon''ble High Court in C.O. No. 15796(W) of 1996. The proceeding is therefore a non-existent one. We, therefore, direct the Block Land and Land Reforms Officer, Contai-I, District Purba Medinipur to draw up a fresh proceeding u/s 14T(5) of the West Bengal Land Reforms Act, 1955 and dispose of the same in accordance with law.

4. We are surprised to see the aforesaid direction of the learned Tribunal. We fail to understand how a final and conclusive judicial order passed by this High Court can be rendered infructuous by the pronouncements of the learned Tribunal.

5. We are constrained to make a comment that the learned Tribunal has not even bothered about following judicial discipline to some extent, perhaps because, their mind set appear to be in the case of administrative and not of judicial. When a judgment and order is passed by this Court quashing a proceeding u/s 14T(5) of the said Act, there is no warrant to reopen the same by giving direction upon the Revenue Officer to start afresh.

6. In this case, we are of the view, under no circumstances the proceedings can be re-opened, even if the matter succeeds before the Hon''ble Supreme Court. The judgment and order of Hon''ble Justice Mitra (as His Lordship then was), as we have observed, has reached its finality and specific direction was given to cancel Patta and to hand over possession.

7. We are told by Mr. Banerjee, leading Mr. Islam that the judgment and order of Hon''ble Justice Mitra (as His Lordship then was) has been carried out and Pattas have been cancelled and possession have been given.

8. Therefore, we set aside the judgment and order of the learned Tribunal recording the fact of implementation of the judgment and order passed in 1996. Obviously, correction of record-of-rights has to be made in view of cancellation of Pattas and in view of judgment and order of Hon''ble Justice Mitra (as His

Lordship then was) and this shall be done, if not done already, within a period of one month from the date of communication of this order.

9. It appears to us that the learned Tribunal in this case has been assisted by a departmental representative who is not having any skill of law and we are surprised to see in a matter of this nature, the State Government has not engaged any learned Lawyer.

10. Hence, we desire that Government should engage invariably a learned Lawyer before the learned Tribunal in each and every matter, which will obviously help the learned Tribunal to come to a lawful decision and in this case this has not happened because of the inept assistance of the departmental representative.

11. Let this order be communicated to the learned Legal Remembrancer by the learned Registrar General of this Court, who will take note of the same.

12. This application is, thus, disposed of. There will be no order as to costs.