

**Civil Appeal No.2548 of 2006**

(State of West Bengal and others vs. Calcutta Mineral Supply  
Co. Pvt. Ltd. and another)

36. We have heard Mr. Rakesh Dwivedi, learned senior counsel appearing for the appellant-State and also Mr. Jaideep Gupta, learned senior counsel appearing for the respondent-company. In this case, indisputably the respondent was in possession of the land measuring about 4.54 acres comprised in a factory or mill together with

structures when WBEA Act came into force in 1954. After the said Act of 1953 came into effect, the company was allowed to retain all the lands comprised in the factory by the respondent by reason of Section 6(1)(g) read with Section 6(3) of the Act as the State Government was of the opinion that the Company required all the lands for the purpose of the factory. It is also not in dispute that at all point of time the respondent-company was holding the land of factory within the ceiling limit as provided under the WBEA Act and West Bengal Land Reforms Act.

37. Mr. Gupta, learned senior counsel, rightly submitted that after coming into effect of the aforesaid Act no order was passed by the concerned authority against the respondent since the land held by it was well within the ceiling limit. The High Court, while considering the case of the respondent, came to the following conclusion:

"28. Once the WBLR Act becomes effective and a person becomes a raiyat within the meaning of Section 4 thereof, he cannot have dual characteristic, one under the WBEA Act and the other under the WBLR Act. It is not at the convenience or whims of the State that it will resort to the provisions of the one or the other Act according to its own convenience. The law is governed by the statute. There is no scope of arbitrariness or whims or caprice in the exercise of power or discretion, left with the State to treat a raiyat in a manner that suits the State according to its own convenience. It is only Section 14Z, which governs the field and to which the State can resort to. The whole exercise of the power under the WBEA Act in this case is wholly without jurisdiction and the exercise can no more encroach upon the field governed by Section 14Z of the WBLR Act.

28.1. In this case, admittedly, the writ petitioner held land comprised in mill and factory measuring about 4.54 acres, which is well within the ceiling both under the WBEA Act and WBLR Act. Therefore, retention of the land under Section 6(1) could not be subjected to Section 6(3) of the WBEA Act, which applies in respect of land held in excess of the ceiling. Similarly, Section 14Z(2) of the WBLR Act applies to land held by a raiyat in excess of the ceiling. Once the writ petitioner became a raiyat by virtue of operation of Section 3A read with Section 4 along with the amendment of the definition of land in Section 2(7) of the WBLR Act with heritable and transferable right in respect of land held by him within the ceiling, there is no scope for application of Section 14Z(2) of that Act.

Order:

29. Therefore, the order passed by the Deputy Secretary/Special Secretary on 20th of July,



2001 (pp. 65-78) upholding the notice and the notice dated 10th of August, 2001 (pp. 76-77) issued by the Sub-Divisional Land and Land Reforms Officer, Barrackpore, for enquiry and possession pursuant thereto and the order dated 18th January, 2001 passed by the learned Tribunal affirming the order passed by the Deputy Secretary being subject-matter of this writ petition cannot be sustained and are hereby quashed. Let a writ of certiorari do issue accordingly."

38. Having regard to the facts of the case of the respondent and also regard being had to the fact that the respondent at all point of time held the land within the ceiling limit, the High Court rightly set aside order dated 29<sup>th</sup> July, 2011 passed by the Special Secretary upholding the notice issued by the Sub-Divisional, Land and Land Reforms Officer. Therefore, we do not find any reason to interfere with the order passed by the High Court so far this case is concerned.

39. For the reasons aforesaid, Civil Appeal No.2549 of 2006 (Collector, Jalpaiguri and another vs. Darjeeling Dooars Plantations (Tea) Ltd. and another) is allowed and the

judgment and order passed by the High Court, in W.P.L.R.T. No.288 of 2005, is set aside. Whereas Civil Appeal No.2548 of 2006 (State of West Bengal and others vs. Calcutta Mineral Supply Co. Pvt. Ltd. and another) is dismissed. However, there shall be no order as to costs.

.....J.  
(M.Y. Eqbal)

.....J.  
(Amitava Roy)

New Delhi  
May 06, 2015