

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

W.P.L.R.T 54 of 2024
Hindustan Motors Limited & Anr.
Vs.
State of West Bengal & Ors.

For the Petitioners : Mr. Mainak Bose, Sr. Adv.
 Mr. Tridib Bose, Adv.
 Mr. Debojyoti Saha, Adv.

For the State : Mr. T.M.Siddiqui, AGP, Sr. Adv.
 Mr. Supratim Dhar, Sr. Adv.
 Mr. S. Adak, Adv.
 Ms. Debdooti Dutta, Adv.

Hearing Concluded on : May 16, 2025
 Judgement on : May 22, 2025

DEBANGSU BASAK, J.:-

1. Writ petitioners have assailed the order dated March 13, 2024 corrected on March 20, 2024 passed by the West Bengal Land Reforms and Tenancy Tribunal in OA No. 3775 of 2022. By the impugned order learned Tribunal has dismissed OA No. 3775 of 2002 filed by the writ petitioners.

2. Learned senior advocate appearing for the writ petitioners has contended that, in 1946, government of West

Bengal acquired 531 acres of land under the Land Acquisition Act, 1894. Possession of such land had been made over to the writ petitioners in 1947. By an indenture dated October 1, 1948, State had conveyed 530 acres of land to the predecessor in interest of the writ petitioner No. 1. Subsequently, State had acquired for the land of 190 acres under the Act of 1894 and possession made over to the predecessor in interest of the writ petitioner No. 1. A similar agreement under Section 41 of the Act of 1894 had been executed.

3. Learned senior advocate appearing for the writ petitioners has contended that, the subject land having been acquired by the State under the Act of 1894, and the same having vested in the State prior to the commencement of the West Bengal Estates Acquisition Act, 1953, a land which is already vested with the State cannot be revested in the State under the Act of 1953.

4. Learned senior advocate appearing for the writ petitioners has referred to Section 3 of the Act of 1953 and more particularly to the 2nd proviso thereof and contended that, the same expressly excludes from the purview of the Act of 1953, land acquired by the State including land in respect of which acquisition proceeding had commenced. He has

relied upon **1987 Volume 3 Supreme Court Cases 465(Union of India vs. Nihar Kanta Sen and Others.) 2002 Volume 9 Supreme Court Cases 682 (Niladri Narayan Chandradhurja vs. State of West Bengal)** in support of the contention that, land vested with the State cannot be revested under the provisions of the Act of 1953.

5. Learned senior advocate appearing for the writ petitioners has contended that, the purported resumption proceedings are contrary to the ratio of **2009 volume 4 Supreme Court Cases 454 (State of West Bengal and others versus Ratnagiri Engineering Private Ltd and Others)**. He has contended that, proviso to Section 6 (3) of the Act of 1953 has been interpreted to mean that, the same can be invoked only if, some fraud or misrepresentation was made to the State for obtaining the order under Section 6 (3) of the Act of 1953 or there was a genuine and important mistake made by the State in passing the order under section 6 (3) of the Act of 1953. He has contended that, the power under the proviso to Section 6 (3) of the Act of 1953 cannot be exercised on the ground that after the order of the State government passed under Section 6 (3) of the Act of 1953, some subsequent developments have taken place. He has contended

that, the impugned order of resumption has proceeded on the basis of subsequent events and therefore, contrary to the ratio of ***Ratnagiri Engineering (supra)***.

6. Learned senior advocate appearing for the writ petitioners has contended that, Explanation II introduced to the proviso to Section 6 (3) of the Act of 1953 is bad in law. He has pointed out that, vires such provisions were challenged before the learned Tribunal. He has contended that, legislature cannot introduce a legislation to render ineffective a judgement of a court of law through an addition of an explanation. He has also contended that, explanation introduced to the statute, cannot amend the provisions therein. According to him, Explanation II introduced has encroached on the judicial power of the court. He has relied upon ***1985 volume 1 Supreme Court cases 591 (S. Sundaram Pillai and Others vs. V. R. Pattabiraman and Others), All India Reporter 1961 Supreme Court 315 (Burmah Shell Oil Storage and Distributing Co. of India Ltd. and Standard Vacuum Oil Co. vs. The Commercial Tax Officer and Others)***, and ***2023 SCC online SC 1137 (NHPC Ltd versus State of Himachal Pradesh)*** in support of his contentions.

7. Learned senior advocate appearing for the writ petitioners has contended that, holders of land under Section 6 (3) of the Act of 1953 are statutory lessees under the State Government. He has referred to Section 4B (2) of the West Bengal Land Reforms Act, 1955 in this regard.

8. Learned senior advocate appearing for the writ petitioners has referred to orders passed by the Delhi High Court and the affidavits used by the state government in the writ proceedings therein being WP (C) 823 of 2016 to contend that, state government has accepted that, the writ petitioner No. 1 was a statutory lessee under the State government by virtue of Section 4B (2) of the Act of 1955. Consequently, he has contended that, the order of resumption purported to be passed under Section 6 (3) of the Act of 1953 after the introduction of Section 4B (2) of the Act of 1955 is bad and contrary to law.

9. Learned senior advocate appearing for the State has contended that, land was initially acquired for Hindustan Motors Corporation Ltd. Acquired land had been made over to the Hindustan Motors Corporation Ltd by a registered instrument. Therefore, title to the land stood transferred to

and vested with Hindustan Motors Corporation Ltd prior to the Act of 1953 coming into effect.

10. Learned senior advocate appearing for the State has relied upon **2020 Volume 9 Supreme Court Cases 548 (West Uttar Pradesh Sugar Mills Association and Others vs. State of Uttar Pradesh and Others)**, **All India Reporter 1957 Supreme Court 297 (A. S. Krishna And Others vs. State of Madras)** and **1979 Volume 3 Supreme Court Cases 431 (M. Karunanidhi vs. Union of India and Another.)** in support of his contention that, there is no repugnancy between the Act of 1894 and the Act of 1953.

11. Referring to the 2nd proviso to section 3 of the Act of 1953, learned senior advocate appearing for the State has contended that, such proviso governs land in respect of which possession was taken before the date mentioned in the notification under Section 4 of the Act of 1953 but the process of acquisition was not completed. He has contended that, the land in question does not fall within the purview of the 2nd proviso to Section 3 of the Act of 1953.

12. Learned senior advocate appearing for the State has contended that, the ratio of **Ratnagiri Engineering Private Limited (supra)** is not attracted to the facts and

circumstances of the present case as, the land in question stood in the name of Hindustan Motors Corporation Ltd on the date of coming into effect of the Act of 1953.

13. The issues that have fallen for consideration are as follows:

- i) Are the provisions of the Act of 1953 attracted in respect of the subject land despite the same being acquired under the Act of 1894?
- ii) Is Explanation (II) to Section 6(3) of the West Bengal Estates Acquisition Act, 1953 ultra vires the Constitution of India?
- iii) Is Section 6(3) of the Act of 1953 not applicable in view of the writ petitioner No. 1 being a statutory lessee in terms of Section 4B(2) of the West Bengal Land Reforms Act, 1955?
- iv) To what relief or reliefs are the parties entitled to?

14. Facts which can be governed from the records that have been produced before us are as follows: –

- (i) Hindustan Motors Corporation Ltd had entered into an agreement on November 23, 1946 with the Governor of the Province of Bengal in respect of acquisition of land for the purpose of setting up of workshop and factory;

- (ii) The Governor of the then Province of Bengal had proceeded to acquire 530.333 acres of land in the district of Hooghly by invoking the provisions of the Act of 1894;
- (iii) A declaration under Section 6 of the Act of 1894 had been made on November 28, 1946 for the purpose of acquiring the land;
- (iv) Between the period January 19, 1947 and August 3, 1947, the Governor for the then Province of Bengal had made over possession of the acquired land to Hindustan Motors Corporation Ltd. on payment in terms of section 41 of the Act of 1894;
- (v) By a Registered Instrument dated October 1, 1948 the Governor of West Bengal had transferred and conveyed 530.333 acres of land acquired under the Act of 1894 to Hindustan Motors Corporation Ltd;
- (vi) By a registered instrument dated April 10, 1950 Hindustan Motors Corporation Ltd, with the consent of the Governor of West Bengal had leased 313.44 acres out of the aggregate land of 530.333 acres, for valuable consideration in favour of the writ petitioner No. 1 for a period of 999 years for the purpose of construction of workshop and factories for the assembly and manufacture

of motor vehicles and establishment of allied industries and storage of goods;

- (vii) By a registered deed of conveyance dated June 5, 1967 Hindustan Motors Corporation Ltd as the owner of 530.333 acres of the acquired land including the 313.44 acres of the leased land had transferred right, title and interest therein in favour of the writ petitioner No. 1 for valuable consideration; writ petitioner No. 1 had applied before the State of West Bengal for further acquisition of land in July 1956.
- (viii) On August 19, 1957, Hindustan Motor Corporation Limited had entered into an agreement with the Governor agreeing to pay all compensation in respect of further acquisition.
- (ix) Between August 4, 1959 and November 14, 1973 Governor had made over a possession of 190.801 acres of land to the writ petitioner no. 1. Writ petitioner no. 1 had duly deposited necessary amounts with the State Government.
- (x) By an indenture dated June 1, 1983 Government had transferred and conveyed to the writ petitioner no. 1 190.801 acres of land.

- (xi) By virtue of a scheme of arrangement sanctioned by the High Court at Calcutta, writ petitioner No. 1 had transferred 54.84 acres of land to Hyderabad Industries Limited on April 15, 1992.
- (xii) By an order dated September 13, 2006, Department of Land and Land Reforms, Government of West Bengal, had allowed writ petitioner no. 1 to transfer and develop a portion of the factory land comprising of 314 acres by virtue of setting up of an Integrated Information Technology Township and added ancillary park.
- (xiii) On March 23, 2007 writ petitioner No. 1 had entered into a development agreement with Bengal Shriram Hi Tech City Private Limited, a special purpose vehicle company set up by the writ petitioner No. 1 with Shriram Transport Ltd. for the purpose of developing and setting up of an integrated IT township and auto ancillary park. Writ petitioner No. 1 had also executed a shareholders agreement with Shrirams Properties Limited and Bengal Shriram.
- (xiv) Writ petitioner No. 1 had informed the State by letters dated August 8, 2011, September 6, 2011 and December 6, 2011 that, the consideration money of Rs. 279.47 crores

received by the writ petitioner No. 1 was utilized towards repayment of lenders, meeting overdue outstanding wages, salaries, working capital requirements as also a statutory dues leaving a small amount to be invested for the rejuvenation of the automotive plant.

(xv) On September 18, 2014, writ petitioner No. 1 Bengal Shriram and the State had executed a deed of assignment whereby, it was agreed to assign the entire 4 per cent of the non-compete fee receivable by the writ petitioner No. 1 from Bharat Shriram in favour of the State.

(xvi) By a memorandum dated September 29, 2014, State had described the manner in which the 4 per cent non-compete fee was to be realized.

(xvii) Between December 6, 2019 and March 16, 2020 State had requested the writ petition No. 1 to disclose the proposal for utilizing the remaining 395 acres of land.

(xviii) By letters dated November 10, 2020 and June 25, 2020 State directed the writ petitioner No. 1 to attend a meeting in connection with the two notices issued.

(xix) By a letter dated April 11, 2022 writ petitioner no. 1 had filed a proposal with the Principal Secretary, Land and Land Reforms Department, State of West Bengal

requesting for an approval to transfer 120 acres of the land out of 395 acres to one joint venture company.

(xx) By a writing dated July 6, 2022 State of West Bengal had expressed its intention to resume the 395 acres of land. Writ petitioner No. 1 had filed a representation dated July 22, 2022 as against that.

(xxi) By a letter dated August 25, 2022, State had called upon the writ petitioner No. 1 to furnish project plan for the proposed EV project detailing requirement of the land and justification with regard thereto.

(xxii) Writ petitioner No. 1 had replied thereto by a letter dated September 2, 2022.

(xxiii) By an order dated November 9, 2022, State had resumed 395 acres of land. Writ petitioners had challenged the same by way of OA 3775 of 2022 which has resulted in the impugned order.

15. State had acquired land in two tranches for Hindustan Motors Corporation Limited. In the first tranche, 530.333 acres of land had been acquired. Such 530.333 acres of land had been conveyed in favour of Hindustan Motors Corporation Limited on October 1, 1948.

16. In the second tranche of acquisition proceedings, 190.801 acres of land had been acquired. State Government had transferred and conveyed such 190.801 acres of land to the writ petitioner No. 1 by a registered deed dated June 1, 1983.

17. The Act of 1953 has come into effect from February 12, 1954. On such date, Hindustan Motors Corporation Limited was the owner of 530.333 acres of land. Subsequent to the coming into effect of the Act of 1953, 190.801 acres of land was acquired by the State under the Act of 1894 and title thereof had been transferred to the writ petitioner on June 1, 1983. Land owned by individuals or legal entities are not immune from the provisions of the Act of 1953.

18. The land in question therefore, is governed by the Act of 1953 and has been accepted to be so by the writ petitioners themselves by their actions taken. In fact, writ petitioner No. 1 has taken the benefit of Section 14Z of the Act of 1955 as well as Section 6(3) of the Act of 1953 as will appear from the memo No. 2675-GE(M)-5M-03-06 dated September 13, 2006. By such memo, the writ petitioner No. 1 has allowed the State to resume 314 acres of land out of 709 acres, in exercise of powers under Section 6(3) of the Act of 1953 unopposed. By

such order, State has resettled the 314 acres of land in favour of the writ petitioner No. 1 under the Second proviso to sub-Section (1) of Section 14Z of the West Bengal Land Reforms Act, 1955 on realisation of a consideration money amounting to Rs. 10.50 crores.

19. *Ratnagiri Engineering Private Limited (supra)* was decided on February 24, 2009 while Explanation II to the proviso to Section 6(3) of the Act of 1993 has been inserted with effect from November 9, 2010.

20. *Ratnagiri Engineering Private Limited & Ors. (supra)* has consider the proviso to Section 6(3) of the Act of 1953 and held that, the power under the proviso to Section 6(3) of the Act of 1953 cannot be exercised by the State Government by taking into consideration subsequent events to the order passed.

21. Section 6(3) with the proviso, explanation and the exception is as follows:

“6(3) In the case of land comprised in a tea garden, mill, factory or workshop the intermediary, or where the land is held under a lease, the lessee, 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, and a person

holding under a lease shall, for the purpose of assessment of compensation, be deemed to be an intermediary:

Provided that the State Government may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the intermediary or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this sub-section specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea garden, mill, factory or workshop, as the case may be.

[Explanation I].- The expression "land held under a lease" includes any land held directly under the State under a lease.

[Explanation II. – For the removal of doubts, it is hereby declared that the expression "revise any order" mentioned in the proviso to this sub-section, shall, notwithstanding anything contained in any law for the time being in force or in any agreement or in any decree, judgment, decision, award of any court, tribunal or other authority, include revision of an order of retention made under this sub-section, at any time after such order of retention so made, if the intermediary or the lessee, as the case may be, fails to use or ceases to use the whole or any part of the land for the purpose for which it has been retained i.e. for tea-garden, mill, factory or workshop, as the case may be, by him, so as to resume such land as being surplus to his requirement, by the State Government in the manner laid down in this proviso.]

Exception. – In the case of land allowed to be retained by an intermediary or lessee in respect of a tea garden, such land may include any land comprised in a

forest if, in the opinion of the State Government, the land comprised in a forest is required for the tea garden.”

22. Proviso to Section 6(3) of the Act of 1953 has allowed the State Government to revise any order impugned by it under Section 6(3). Explanation II has explained that, for the removal of doubts, the expression “revise any order” mentioned in the proviso shall notwithstanding anything contained in any law for the time being in force or in any agreement or in any decree, judgment, decision, award of any Court, Tribunal or other authority, including revision of any order of retention at any time after such order of retention so made, if the intermediary of the lessee as the case may be, fails to use or ceases to hold any part of the land for the purpose of which it has been retained, can be resumed as surplus land. In other words, Explanation II allows the State Government to revise its order under Section 6(3) on the basis of subsequent events.

23. ***Ratnagiri Engineering Private Limited & Ors.*** (*supra*) has been rendered in a situation where, Explanation (II) was not introduced to the proviso to Section 6(3) of the Act of 1953. Explanation II introduced to the proviso to Section 6(3) of the Act of 1953 otherwise falls within the competence

of the State legislature to legislate should it muster the test of “colourable legislation”. Writ petitioners have contended that, in view of ***Ratnagiri Engineering Private Limited & Ors.(supra)*** , Explanation (II) is ultra vires the Constitution as it is a piece of colourable legislation.

24. The preamble to the Act of 1953 has specified that, the same is to provide for the State acquisition of estates, of rights of intermediaries therein and certain rights of raiyats and under-raiyats and of the rights of certain other persons in lands comprised in estates. The word estate has been defined in Section 2 (f) of the Act of 1953 to include part of an estate or part of a tenure. Agricultural land as well as nonagricultural land have been defined in Section 2 (b) and (j) respectively in the Act of 1953.

25. Section 3 of the Act of 1953 has provided that, the Act of 1953 shall override other laws. The 2nd proviso to such Section has provided that, if possession of land is taken by the State in terms of any acquisition proceedings, then, the Act of 1953 shall not affect such land and that, the proceedings for acquisition of such land may be continued or commenced as if the Act of 1953 had not been passed.

26. Section 4 of the Act of 1953 has provided for vesting of estates and rights of intermediaries on publication of requisite notification to such effect. It has been admitted at the bar that, in the facts and circumstances of the present case, the land in question falls in an area in which, the Act of 1953 operates. Independent of such admission, there is a notification in the Calcutta Gazette dated November 11, 1954 which contains a notification under Section 4 of the Act of 1953 in respect of the district concerned.

27. Title of 530.333 acres of land acquired by the State under the Act of 1894 had been transferred to Hindustan Motors Corporation Ltd prior to the notification under Section 4 of the Act of 1953. Such land was therefore not under an acquisition process in terms of the 2nd proviso of Section 3 of the Act of 1953. Similarly, titled to 190.801 acres of land acquired under the Act of 1894 was transferred to the writ petitioner No. 1 on June 1, 1983 and therefore, such portion of land also cannot be considered to be falling within the 2nd proviso to Section 3 of the Act of 1953.

28. Section 41 of the Act of 1894 permits transfer of right, title and interest in respect of land acquired thereunder to the person at whose behalf acquisition proceedings had been

undertaken, on certain conditions. At best, such transfer of right, title and interest of the land to the entity at whose behest, the acquisition proceedings were undertaken under the Act of 1894, can be said to be a conditional transfer.

29. Two title deeds had been executed by the State-one in favour of Hindustan Motors Corporation Ltd and the other in favour of the writ petitioner No. 1-in respect of the land concerned claimed to be governed by Section 41 of the Act of 1894. Nothing has been placed on record to establish that, any of the transfer these have violated any of the provisions of the conditional sale or that, State has sought to repudiate the title deeds.

30. *Nihar Kanta Sen and others (supra)* has held that, the 2nd proviso to Section 3 of the Act of 1953 is intended to protect the rights of those tenure holders whose land may have been the subject matter of acquisition proceedings under any law with a view to protect their rights to get compensation. In the facts of that case, it has held that, since the property in dispute was not under acquisition and the possession of the same had been taken by the State in acquisition proceedings, the 2nd proviso has no application. In the facts and circumstances of the present case, the entirety

of the land had belonged to legal entities other than the State. At the time when the Act of 1953 has come into operation, such land was not the subject matter of any acquisition proceedings.

31. *Niladri Narayan Chandradhurja (supra)* has held in the facts and circumstances of that case, that, the land in question stood vested under the Act of 1953 and therefore, the question of the same vesting under the Act of 1894 does not arise. Again, in the facts and circumstances of the present case, on the date when the Act of 1953 came into effect, the land in question stood in the name of an entity other than the State.

32. In view of the discussions above, the first issue is answered in the affirmative and against the writ petitioners, by holding that the provisions of the Act of 1953 stands attracted in respect of the subject land.

33. *S Sundaram Pillai and others (supra)* has dealt with the issue of an Explanation added to a statutory provision. It has held that, an Explanation added to a statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant

to explain or clarify certain ambiguities which may have crept in the statutory provision.

34. NHPC Ltd (supra) has considered the issue of legislative enactment to remove the basis of judgement. It has considered the doctrine of abrogation. It has held as follows: –

“39. The Constitution of India precludes any interference by the legislature with the administration of justice and judicial determination of the validity of a legislation. The power of abrogation is to be exercised in the light of the said constitutional mandate. The legislative device of abrogation must be in accordance with the following principles which are not exhaustive:

39.1. There is no legal impediment to enacting a law to validate a legislation which has been held by a court to be invalid, provided, such a law removes the basis of the judgment of the court, by curing the defects of the legislation as it stood before the amendment.

39.2. The validating legislation may be retrospective. It must have the effect that the judgment pointing out the defect would not have been passed, if the altered position as sought to be brought in by the validating statute existed before the court at the time of rendering its judgment.

39.3. Retrospective amendment should be reasonable and not arbitrary and must not be violative of any constitutional limitations.

39.4. Setting at naught a decision of a court without removing the defect pointed out in the said decision is opposed to the rule of law and the scheme of separation of powers under the Constitution of India.

39.5. Abrogation is not a device to circumvent an unfavourable judicial decision. If enacted solely with the intention to defy a judicial pronouncement, an Amendment and Validation Act, 1997 may be declared as ultra vires.”

35. A S Krishna (supra) has upheld the constitutional validity of Sections 4 (2), 28, 29, 30, 31 and 32 of the Madras Prohibition Act, 1937.

36. M Karunanidhi (supra) has held that, the presumption is always in favour of the constitutionality of a statute and the onus lies on the person claiming the Act to be ultra vires to prove that it is unconstitutional. It has considered the issue of the repugnancy of statutes. It has held that, provisions of Tamil Nadu Public Men (Criminal Misconduct) Act, 1973 was not repugnant to the Indian Penal Code, Prevention of Corruption Act, and Criminal Law (Amendment) Act, 1952.

37. Doctrine of separation of powers although not expressly engrafted in the Constitution is apparent from its working. It has been judicially recognised that, the doctrine of separation of powers is an entrenched principle in the Constitution of India being an essential constituent of the rule of law. Independence of Courts from the executive and the legislature is fundamental to the rule of law and one of the basic tenets of the Constitution of India. Doctrine of

separation of power *ipso facto* does not prevent the legislature from passing a law which it is otherwise competent to do so. However, in the event, it is established that, the law enacted by the legislature, although apparently being within its competence but in substance an attempt to interfere with the judicial process, such law may be invalidated being in breach of doctrine of separation of powers.

38. *NHPC Limited (supra)* has held that, though legislature cannot directly set aside a judicial decision, but it is open to the legislature to alter the law retrospectively provided the basis of the earlier judgment is removed, thereby resulting in fundamental change of circumstances upon which it was founded. Such legislative exercise is valid provided it does not transgress on any other constitutional limitation. The power of legislature to legislate within its field both prospectively and to a permissible extent retrospectively, cannot be interfered with by Courts provided that they are made in accordance with the Constitution. However, while legislature merely seeks to validate acts carried out under previous legislation which was struck down by subsequent legislation without removing the defect in such legislation, the subsequent legislation would also be ultra vires.

39. In the facts and circumstances of the present case, Section 6(3) of the Act of 1953 has been interpreted by ***Ratnagiri Engineering Private Limited (supra)*** to mean that, revision of the quantum of land allowed to be retained cannot be done on the basis of subsequent events. Explanation II introduced to the 2nd proviso of Section 6(3) however, has sought to redress such defect in Section 6(3) by providing, retrospectively, that, revision of quantum of land allowed to be retained can be undertaken on the basis of the subsequent events.

40. Explanation II introduced to Section 6(3) of the Act of 1953 has brought Section 6(3) of the Act of 1953 to be in tune with the declared objective of the Act of 1953, that is, it being the law relating to land tenure consequent on the vesting of all estates and certain rights therein. Power of the State to take cognizance of the subsequent events with regard to the land in question governed under the Act of 1953 has been recognised in various provision of the Act of 1953 itself as also in the Act of 1953. Both Act as complementing each other. Explanation II is one of such provision which allow subsequent events to be taken into account.

41. In view of the discussions above, the Explanation II cannot be said to be beyond the legislative competence of the State legislature nor can it be said be limited to any individual person. It seeks to redress a lacunae with regard to its interpretation, as noted in ***Ratnagiri Engineering Private Limited (supra)***.

42. In such circumstances, we hold that Explanation II to Section 6(3) of the Act of 1953 is not ultra vires the Constitution of India. The second issue is, therefore, answered in the negative and as against the writ petitioners.

43. ***Burmah Shell Oil Storage and Distributing Co. of India Ltd. and Standard Vacuum Oil Co. (supra)*** has considered the issue of an explanation appearing in Article 286 of the Constitution of India before amendment and when the same can be invoked. It has explained that, the explanation can apply only if more than one State was involved in the same transaction.

44. ***West Uttar Pradesh Sugar Mills Association and Others (supra)*** has dealt with the issue of repugnancy. It has held that, question of repugnancy arises only in a case where there is an actual irreconcilable conflict between the two lands. In the facts and circumstances of the present case, it

cannot be said that the explanation II introduced to Section 6 (3) of the Act of 1953 is repugnant to Section 6 (3) thereof.

45. The writ petitioners may or may not be direct lessee under the State in terms of Section 4B (2) of the Act of 1955 but that does not preclude the applicability of Section 6(3) of the Act of 1953 in respect of the land in question.

46. In such circumstances, the third issue is answered by holding that, the writ petitioner No. 1 is governed by the Act of 1953 and is amenable to proceedings under Section 6 (3) thereof.

47. In view of the discussions above we find no merit in the present writ petition. The writ petitioners are not entitled to any relief. Fourth issue is answered accordingly.

48. WPLRT 54 of 2024 is dismissed without any order as to cost.

[DEBANGSU BASAK, J.]

49. I agree.

[MD. SHABBAR RASHIDI, J.]

Later:-

Prayer for stay of the impugned judgment and order made on behalf of the petitioners is considered and refused since, we dismissed the writ petition and upheld the order of the learned Tribunal.

[DEBANGSU BASAK, J.]

I agree.

[MD. SHABBAR RASHIDI, J.]