

INDIA / JUDGMENT

SRI PRASANTA KUMAR PAL & ORS

versus

THE STATE OF WEST BENGAL & ORS

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[2025] 4 S.C.R. 2606 : 2025 INSC 783

Sri Prasanta Kumar Pal & Ors. v. The State of West Bengal & Ors.

(Civil Appeal No. 5078 of 2025)

8 April 2025

[Rajesh Bindal and Nongmeikapam Kotiswar Singh, JJ.]

Issue for Consideration

Whether the observation of the Revenue Officer, as prima facie accepted by the High Court that the transaction of gift deed dated 07.12.1967 was a Benami transaction is totally erroneous as the amendment (2nd and 3rd Amendment in the West Bengal Land Reforms Act, 1955) came into effect almost two decades after registered gift deed was executed.

Headnotes†

West Bengal Land Reforms Act, 1955 – 2nd Amendment (came into force on 07.08.1969) and 3rd Amendment (came into force on 12.05.1989) – s.14T(3) r/w ss.14M, 14T (8) & (9) & 14S – Determination of surplus land – The Revenue Officer vide order dated 16.06.1997 held that the gift deed executed on 07.12.1967 (vide which 20.88½ acres of land was transferred) was a benami transaction – After adding the aforesaid area, surplus area was again redetermined – Tribunal set aside the order of the Revenue Officer – Aggrieved, the State preferred the writ petition, which was accepted by the High Court and the matter was remitted back – Correctness:

Held: The facts on record, which are not in dispute are that the aforesaid gift deed was executed by one ICP on 07.12.1967, gifting some part of his land holding to his three sons and three daughters, leaving substantial portion with him – When calculated in terms of the 1955 Act, an area of 8.80 acres was declared as surplus and the same vested in the State – The aforesaid registered gift deed dated 07.12.1967 was given effect to in the revenue records on 26.05.1969 – It will be absurd to accept the argument that such a transaction can be held to be Benami with reference to an

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amendment carried in the 1955 Act with effect from 12.05.1989, as no one could possibly dream that the land holding had to be distributed amongst the family members to avoid it being declared as surplus on a later date – The genuineness of the registered gift deed executed on 07.12.1967 could not be put in question two decades later only because an amendment had been carried out in 1989 with retrospective effect – In the aforesaid factual matrix of the case, the High Court has committed an error in setting aside the order passed by the Tribunal by remitting the case for examination afresh as no two opinions could be formed on the basis of the facts. [Paras 12-14 and 16]

Case Law Cited

Mrinal Kanti Pal v. State of West Bengal, (2000) SCC OnLine Cal 513 – referred to.

West Bengal Land Reforms Act, 1955.

List of Acts

List of Keywords

Registered gift deed; Retrospective effect; Surplus land; Benami transaction; Remitted the matter back.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5078 of 2025

From the Judgment and Order dated 08.09.2021 of the High Court at Calcutta in WPLRT No. 31 of 2020

Appearances for Parties

Advs. for the Appellants: Kalyan Banerjee, Sr. Adv., Ms. Madhumita Bhattacharjee, Gaurav Jain, Ms. Abha Jain.

Advs. for the Respondents: Kalyan Banerjee, Sr. Adv., Gaurav Jain, Ms. Abha Jain, Ms. Madhumita Bhattacharjee.

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Judgment / Order of the Supreme Court

Order

1.

Leave granted.

2. The appellants have filed the present appeal impugning the order dated 08.09.2021 passed by the High Court¹ in a Writ Petition². Vide aforesaid order, the High Court had set aside the order dated 11.01.2019 passed by the Tribunal³ in Original Application No.452 of 2008.
3. Briefly, the argument raised by the learned counsel appearing for the appellants is that one Iswar Chandra Pal had executed a registered gift deed dated 07.12.1967 in favour of his sons and daughters. Vide the aforesaid Gift Deed 20.88½ acres of land was transferred. The same was given effect to in the revenue records on 26.05.1969 and the land was transferred in the respective shares of the beneficiaries. Considering the balance land of the said Iswar Chandra Pal, the Government had declared 8.80 acres of land as surplus area and had taken possession thereof. Iswar Chandra Pal died in the year 1975.
4. Subsequently, after the 2nd⁴ and 3rd⁵ Amendment in the West Bengal Land Reforms Act, 1955⁶, proceedings⁷ under Section 14T(3) read with Sections 14M & 14S of the 1955 Act were initiated to determine the surplus land and vest the same with the state in respect of the land held by late Iswar Chandra Pal. During the pendency thereof, further proceedings⁸ under Section 14T(5) read with Section 14T
- (8) & (9) of the 1955 Act were initiated to find out as to whether the gift deed executed by Iswar Chandra Pal in favour of his sons and daughters in the year 1967 was a benami transaction. Vide order dated 16.06.1997 passed by the Revenue Officer the gift deed executed by late Iswar Chandra Pal in favour of his sons and

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High Court at Calcutta

2 W.P.L.R.T. No.31 of 2020

3 West Bengal Land Reforms and Tenancy Tribunal

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Came into force on 07.08.1969

Came into force on 12.05.1989

Hereinafter 'the 1955 Act'

Case No. 52 of 1996

Case No. 3 of 1997

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daughters on 07.12.1967 was held to be a benami transaction. After adding the aforesaid area, surplus area was again redetermined. It was held that out of the total land area of 26.55 acres, the family of late Iswar Chandra Pal shall be entitled to get 8.65 acres of land in non-irrigated area. Balance 17.90 acres of land was declared to be surplus.

5. Aggrieved against the order passed by the Revenue Officer, the appellants preferred appeals⁹ before the Appellate Authority. Vide order dated 18.12.2007 the matter was remanded to the Revenue Officer, limited to the extent of selection of the area for retention of the land beyond the surplus area.
6. Aggrieved against this order, the appellants preferred an appeal¹⁰ before the Tribunal, which was accepted vide order dated 11.01.2019 and the order of Revenue Officer was set-aside.
7. Aggrieved against the order passed by the Tribunal, the State preferred Writ Petition² in the High Court, which was accepted by the impugned order and the matter was remitted back.
8. The argument raised by learned counsel for the appellant is that the observation of the Revenue Officer, as prima facie accepted by the High Court is that the transaction of gift deed dated 07.12.1967 was a Benami transaction is totally erroneous as the amendment came into effect almost two decades after registered gift deed was executed. No one could imagine in 1967 that they need to plan the holding of the land in a way that it is not declared surplus in future. The gift deed was a registered document, which was given effect to in the revenue records on 26.05.1969, much prior to the amendment.
9. On the other hand, Mr. Kalyan Banerjee, learned senior counsel appearing for the State submitted that the matter had to be taken up suo motu for the reason that Section 14T(5) of the Amendment Act, 1986 empowered the Revenue Officer to re-open old matters, as the amendment had been given retrospective effect. The transaction being Benami, suo motu power was rightly exercised by the Revenue Officer. It is further submitted that a wrong finding has been given by the High Court regarding the Amendment Act, 1986 being not

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Appeal Case No 16(T)/02 & Appeal Case No. 17(T)/02

10 Original Application No. 452 of 2008

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retrospective as the vires of Section 14T(5) of the Amendment Act, 1986 has already been upheld by the Division Bench of the High Court in *Mrinal Kanti Pal v. State of West Bengal*¹¹.

10. Heard the learned counsel appearing for the parties and perused

the paper book.

11.

In our view, the facts of the case clearly suggest that the opinion *prima facie* expressed by the High Court that the transaction of execution of gift deed by Late Iswar Chandra Pal on 07.12.1967 seems to be Benami is erroneous on the face of it.

12. The facts on record, which are not in dispute are that the aforesaid gift deed was executed by Late Iswar Chandra Pal on 07.12.1967, gifting some part of his land holding to his three sons and three daughters, leaving substantial portion with him. When calculated in terms of the 1955 Act, an area of 8.80 acres was declared as surplus and the same vested in the State.

13. The aforesaid registered gift deed dated 07.12.1967 was given effect to in the revenue records on 26.05.1969. It will be absurd to accept the argument that such a transaction can be held to be Benami with reference to an amendment carried in the 1955 Act with effect from 12.05.1989, as no one could possibly dream that the land holding had to be distributed amongst the family members to avoid it being declared as surplus on a later date.

14. The genuineness of the registered gift deed executed on 07.12.1967 could not be put in question two decades later only because an amendment had been carried out in 1989 with retrospective effect.

15.

If that argument is to be accepted then late Iswar Chandra Pal could have distributed his entire holding amongst his children and saved every inch of land. But the fact remains that even after gifting part of holding to his sons and daughters, still 8.80 acres of land in his hands was found to be surplus, which was declared as such and vested in the State.

16.

In the aforesaid factual matrix of the case, in our view, the High Court has committed an error in setting aside the order passed by the Tribunal by remitting the case for examination afresh as no two

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(2000) SCC OnLine Cal 513.

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opinions could be formed on the basis of the facts as discussed above.

17. For the reasons mentioned above, the appeal is allowed. Consequently, the impugned order passed by the High Court in W.P.L.R.T. No.31 of 2020 dated 08.09.2021 is set aside and the order of the Tribunal in Original Application No.452 of 2008 dated 11.01.2019 stands restored.
18. Pending application(s), if any, shall stand disposed of.
19. Before parting with the judgment, it needs to be mentioned here that all the figures are taken from the pleadings, which contain apparent errors at several places.

Result of the case: Appeal allowed.

†Headnotes prepared by: Ankit Gyan

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