

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 9435 of 2020

(Through Video Conference)

**Reliance Projects and Property
Management Services Limited
(formerly known as Reliance
Corporate IT Park Ltd.)**

-vs.-

**District Magistrate and Collector,
Nadia, Land Acquisition Section
(NHAI) & Ors.**

Mr. Mainak Bose,
Mr. Rajarshi Datta,
Mr. Tridib Bose
...for the petitioner

Mr. Soumitra Bandyopadhyay,
Mr. Aniruddha Sen
...for the State

Mr. Shamit Sanyal,
Ms. Manika Roy
...for the respondent no. 4

The petitioner has approached this Court with the grievance that upon the petitioner having made a construction, after purchase of the land-in-question from its erstwhile owner, the respondent-authorities sought to demolish such construction on the ground that the same was standing on land acquired by the National Highways Authority. However, learned senior counsel for the petitioner argues that, from all previous documents, some of which are annexed at page 92 of the writ petition, it is clear that the total area of the

land-in-question was .07 acres, out of which .04 acres of land, belonging to the original owner, Debashis Chakraborty, was acquired by the National Highways Authority, whereas the remaining .03 acres of land, purchased by the petitioner, stood outside the purview of such acquisition. Subsequently, a writ petition was moved by the petitioner, bearing W.P. No. 24357 (W) of 2019, where vide order dated December 30, 2019 a co-ordinate Bench of this Court had directed the Additional District Magistrate (Land Acquisition), Nadia to dispose of the representation of the petitioner dated December 24, 2019 in that regard, upon giving an opportunity of hearing to all concerned including the respondent no. 5 therein. It was further observed by the learned Single Judge that if it was required, the identity of the land should be demarcated with the help of the office of the Block Land and Land Reforms Officer concerned. Such inspection and measurement of land and survey thereof should be held in the presence of all the parties. Copies of the report of such survey/inspection were to be supplied to all parties and, thereafter, a reasoned decision to be taken and communicated to the parties. *Status quo* regarding the plot was directed to be maintained till such decision was taken.

Subsequently, inspection was held pursuant to the order of the co-ordinate Bench and the petitioner

was furnished with a sketch map, apparently prepared by the respondent-authorities (Annexure P-8 at page 129 of the writ petition), which shows that only .06 acres of land was in possession of the previous owner, Debashis Chakraborty and .0301 acres of land was shown to be the acquired area.

This, the petitioner submits, is contrary to the consistent records of the land kept by appropriate authorities, inasmuch as it reduces the total quantum of the land to .06 acres from .07 acres, which would cast an unnecessary doubt on the petitioner's construction being on the acquired land or not.

Learned senior counsel further places reliance on the order dated November 11, 2020 passed by the competent authority under the National Highways Act, 1956 [Additional District Magistrate(LA), Nadia] and submits that the same does not reflect any consideration of these aspects of the matter and, as such, ought to be set aside.

By the said order, the petitioner was directed to be evicted in respect of the standing structure area "which involved in acquisition of the land", keeping the quantum of land vague.

Learned counsel appearing for the National Highways Authority submits that due process of law was followed and the order of the co-ordinate Bench, as mentioned above, was strictly complied with. Learned

counsel places reliance on several orders passed by the competent authority, January 21, 2020 onwards, to show that after due verification of the spot, the BL & LRO, Chakdah, in consultation with official records and physical verification of the plot under acquisition, submitted report of measurement held on January 21, 2020, which was kept on record by the competent authority. As such, it is submitted that there is no merit in the present challenge, since the competent authority passed the order of eviction on the basis of the report, which was filed after due inspection pursuant to the order of the co-ordinate Bench.

It appears upon perusing the materials-on-record and hearing the parties that there is a dispute as regards the quantum of total land, which would cast a cloud over the actual portion of such land, on which the petitioner's structure is standing. In the event the total land was .06 acres, what might have been an encroachment by the petitioner on the acquired land, becomes the legitimate property of the petitioner if the quantum of land was to be .07 acres. Thus, on the face of it, the competent authority ought to have considered the report on its merits and dealt with rival contentions of the parties, upon an assessment of the materials-on-record to determine whether the petitioner's structure is actually standing on the acquired property. Any reflection of such consideration and/or assessment is

absent in the impugned order dated November 11, 2020.

On query of Court, it is learnt that no copy of the report is available with the National Highways Authority. It is submitted that the District Magistrate concerned might furnish a copy of such report.

However, it was categorically recorded by the competent authority in its order dated November 04, 2020 that such report of measurement was kept on record in the proceeding before the competent authority. As such, it is not understood as to why the competent authority is shying away from producing the same. That apart, in the event the report was not with the competent authority, the entire validity of the impugned order dated November 11, 2020 loses force, since the authority could then be presumed to have passed order without looking into the report at all.

Thus, the impugned order was bad in all.

In such circumstances, W.P.A. No. 9435 of 2020 is allowed, thereby setting aside the order of eviction dated November 11, 2020 passed by the competent authority under the National Highways Act, 1956 [Additional District Magistrate (LA), Nadia] and directing the competent authority, being the respondent no. 2, to reconsider the matter upon hearing both sides and considering all relevant materials, including the report-

in-question, and to decide the matter, within one month from date.

The competent authority is further directed to clearly furnish reasons in its order, in accordance with law, as to how it arrives at its conclusion.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)