

12
15.12.2021
Ct. No.10
b.das

W.P.A. 10172 of 2021

(Via Video Conference)

Radhashyam Rana

Vs.

State of W.B. & Ors.

Mr. Debasish Das

...for the petitioner.

Mr. Susovan Sengupta

Mr. Srikanta Paul ...for the State.

Heard learned counsels for the parties.

It is submitted on behalf of the petitioner that a portion of his land was acquired by the State authorities in 1946 for the purpose of extension of Contai-Belda Major District road in the district of Purba Medinipur. The authorities issued a notice of restoration in respect of 50 ft. of the said plot vide Misc case No.78 of 1953-54 in terms of the sketch map drawn on 20th August, 1953.

The petitioner filed representation before the authority for relinquishment of the said land which was turned down by the authority.

The petitioner prays for a direction upon the authority to demarcate the said 50 ft. of the plot in

question according to the sketch map dated 20th August, 1953.

The petitioner refers to page 88 of the writ petition which is a writ of possession issued on 21st December, 2012 which indicates that the State authority was in possession of all relevant documents pertaining to LA case No.3/46-47 while issuing this writ of possession. Similar writ of possession was also issued by the State authorities on the same day to other land holders (Page-104 of the writ petition).

Opposing the prayer of the petitioner learned counsel for the State submits that as the matter pertains to 1953-54, no records of the same are available with the authorities at the moment. Further, land which was acquired could not have been relinquished in favour of the petitioner at a subsequent date.

The petitioner did not take any steps for either relinquishment of the land or payment of compensation in his favour since 1953-54 and chose to come before this Court only in 2021. The prayer of the petitioner ought to be dismissed due to delay and laches on his part. There is also a disputed question of fact regarding acquisition which cannot be gone into by the writ court.

It is not in dispute that a portion of land of the petitioner was initially acquired by the State authorities in LA Case No.3 of 1946-47. By a subsequent notice of restoration in Misc. Case No.78 of 53-54, 50 ft. of the said

land was proposed to be relinquished. Such notice being issued by the LA Collector, Medinipur, the question of denial of the notice by the State authorities does not arise. The portion proposed to be restored has been shown in the sketch map dated 20th August, 1953.

The innocuous prayer of the petitioner is for demarcation of the said 50 ft. of land in terms of the sketch map. It is a fact that there has been delay on the part of the petitioner in making such claim. At the same time, the order dated 22nd September, 2020 passed by the Land Acquisition Collector, Tamluk, Purba Medinipur, rejecting the petitioner's claim also suggests that though the land was acquired by the authority in 1946-47 and notice of relinquishment was issued in 1953-54, the State authorities also did not require the land for a considerable period of time and it was in reply to the petitioner's claim that it was held by the State authorities that they now require the land for the purpose of widening the road and necessary DPR to that effect has been submitted for sanction.

In view of the submissions made on behalf of the parties and the material on record, this Court is of the view that the petitioner be given liberty to submit a representation before the 2nd respondent being also the District Magistrate, for demarcation of the 50 ft. of land as referred to earlier in terms of the sketch map dated 20th August, 1953.

I, therefore, dispose of the writ petition with liberty to the petitioner to submit a representation before the 2nd respondent for demarcation of the land in question (50 ft.) in terms of the sketch map dated 20th August, 1953 within a week from date.

The 2nd respondent shall consider and dispose of the representation within a period of two months from the date of receipt of the representation, after affording reasonable opportunity of hearing to all the interested parties including the petitioners, in accordance with law.

With the above observations and directions this writ petition WPA 10172 of 2021 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)