

**02.
12.07.2021.
Ct. No. 11.
F.B.**

**MAT 625 of 2021
with
IA No. CAN 1 of 2021
(Via Video Conference)**

**Chen Chi Wei & Anr.
-Vs.-
The Stare of West Bengal & Ors.**

**Mr. Suddhasatva Banerjee,
Mr. Dwip Raj Basu
..... For the Appellants.**

**Mr. Alope Kumar Ghosh,
Ms. Tanushree Dasgupta
..... For the KMC.**

**Mr. Himadri Sikhar Chakraborty,
Ms. Debdooti Dutta
..... For the State.**

Under challenge in this appeal is the order dated 7th of July, 2021 of the Hon'ble Single Bench in the writ petition being WPA 11006 of 2021. By the said order impugned the Hon'ble Single Bench had permitted the Respondents/Kolkata Municipal Corporation (KMC) to carry on with the construction activity from the premises in question which, the appellants/ the writ petitioners claim to belong to them. The Plots in question are Plot Nos. 13 and 14 corresponding to Settlement Nos. 662 and 668 of Holding Nos. 149 and 157 of Village Tangra South, J.L. No. 46, P.S.

Tollygunge, Dist.- South 24-Parganas (hereinafter referred to as the said Plots).

At the very outset, Mr. Ghosh, Learned Senior Counsel appearing for the Respondents/the KMC, submits that certain areas within the said Plots have been acquired by the State as long back as in 1930. The appellants/the writ petitioners are wrongly claiming that the said Plots belong to them.

Per contra, Mr. Banerjee, Learned Counsel, appears for the appellants/the writ petitioners and points out that no evidence of the purported acquisition has been produced before the Hon'ble Single Bench when the order impugned dated 7th July, 2021 was passed. Mr. Banerjee submits that it is incumbent upon the State Respondents to produce the documents of acquisition first prior to embarking upon any attempt at constructing over the said Plots.

Having heard the parties and considering the materials placed, this Court finds adequate strength in the submissions advanced by the Learned Counsel for the appellants. This Court finds that the State Respondents are duty bound to first produce before the Hon'ble Single Bench by way of adequate evidence their claim of acquisition over certain areas in the said Plots.

This Court further finds that the Hon'ble Single Bench has fixed the matter for consideration under the heading "Specially Fixed" after permitting the parties to exchange affidavits. Therefore, this Court is mindful of the fact that the Hon'ble Single Bench kept the option of scrutinizing the evidence to be produced in support of the claim to acquisition open for consideration on affidavits.

In the light of the above discussion, this Court is also of the view that the parties ought to maintain the present *status quo* in the said certain areas over the said Plots till the Hon'ble Single Bench is satisfied that there is adequacy of evidence in support of the acquisition.

The matter thus returns to the Hon'ble Single Bench for consideration as directed by the order dated 7th July, 2021 on affidavits.

Pending further orders of the Hon'ble Single Bench, the parties shall maintain the present *status qua* for four weeks from this date connected to the said certain areas in the said Plots.

MAT 625 of 2021 with **IA No. CAN 1 of 2021** stand thus **disposed of**.

Since affidavits are not invited, all allegations are deemed to be denied and disputed.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

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

(Saugata Bhattacharyya, J.) (Subrata Talukdar, J.)