

July 26, 2021
ARDR

(18)

WPA 18581 of 2019

Diganta Vyapaar Private Limited
Vs.
The State of West Bengal & Ors.

Mr. Debjit Mukherjee,
Mr. Deepak Kumar Jain

.... for the Petitioner.

Mr. S. S. Koley,

...for the WBSEDCL.

Mr. Soumitra Bandhopadhyay,
Mr. Aniruddha Sen

.... for the State.

The grievance of the petitioner is that the respondent no.1 (West Bengal State Electricity Distribution Company Limited) had forcibly entered into the premises of the petitioner in the first week of January, 2019 and are carrying out construction activities without any authority of law.

It is further alleged on behalf of the petitioner that the respondent no.1 is also seeking to install a sub-station at the subject premises without lawfully having acquired any portion of the same. The entire case of the petitioner primarily rests on certain documents signed by the Special Land Acquisition Officer, North 24 Parganas, Barasat and Additional Land Acquisition Officer, North 24 Parganas whereby it has been

mentioned that the subject premises have not been involved in any acquisition initiated by the office in question.

The State respondents are represented and submit that the petitioner is a post acquisition transferee. It is further submitted by the State respondents that the premises of the petitioner was acquired as far back as in 1961. In fact, in respect of the acquisition proceedings of the subject premises the predecessors in interest of the petitioner had also received the entire award money.

The respondent no.1 is also represented and submits that subject premises has been lawfully acquired in appropriate proceedings initiated under the Land Acquisition Act, 1894. It is further submitted on behalf of the respondent no.1 that the purported documents relied on by the petitioner have been obtained from the Land Acquisition Office, North 24 Parganas which does not have territorial jurisdiction in respect of the subject premises.

The entire grievance of the petitioner is based on the premise that the subject premises or any portion thereof have not been acquired by the State respondents. I find that there is no merit in the case sought to be made out by the petitioner. It appears from the contentions made on behalf of the State respondents that in respect of the subject premises a

notice under Section 4 of the Land Acquisition Act had been published in the Calcutta Gazette in 1961. Thereafter, a declaration under Section 6 was published at pages-1145/46 of the Calcutta Gazette on 28 April, 1961. Finally, possession was taken and made over by the requiring authority on 2 August, 1961 and 28 September, 1961. Subsequently, the award in respect of the aforesaid acquisition was equally apportioned amongst the different plot owners. I find that all these facts have been carefully, deliberately and mischievously suppressed in the petition. The petitioner is admittedly a post award purchaser long after the acquisition of the subject premises. The fact of acquisition of the subject premises and payment of compensation is indisputable and incontrovertible. The reference to the documents annexed to the petition inter alia alleging that the subject premises has not been part of any acquisition are by an authority which does not have any territorial jurisdiction in respect of the subject premises.

In view of the aforesaid, I find no merit in this petition. There is no illegal nor unlawful encroachment by the respondent no.1 upon any portion of the subject premises. Accordingly, I find that the petition has been filed on the basis of gross suppression, distortion and misrepresentation of the true and correct facts of the instant case.

Hence, WPA 18570 of 2019 is dismissed.
However, there will be no order as to costs.

(Ravi Krishan Kapur, J.)