

**Sl. No. 32
08.02.2021
Srimanta**

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 280 of 2021

Sri Jadunath Dutta & Ors.

-versus-

The Union of India & Ors.

Mr. Amales Ray, Adv.,
Mr. Ajay Choudhuri, Adv.,
Mr. Arnab Sengupta, Adv.,
Mr. Deborshi Dhar, Adv.

...for the petitioners.

Mr. Subir Kumar Saha, Adv.,
Mr. Momenur Rahman, Adv.

...for the State.

Mr. Sudipta Kumar Majumder, Ld. A.S.G,
Mr. Ashok Kumar Ghosh,, Adv.,
Mrs. Swarnali Ghosh (Sengupta), Adv.

...for the Union of India.

Affidavit-of-service and the supplementary affidavit filed by the petitioners in Court today be kept with the record.

This is the second round of the litigation filed by the petitioners. Petitioner no. 1 and the predecessor-in-interest of petitioners no. 2, 3 and 4 were recorded owners of 3.43 acres of land mentioned in the writ petition. Since 1963 the said land is under possession of the defence under respondent no. 7, the Director General, Directorate General of Defence Estate, having its office at Raksha Sampad Bhawan, New Delhi. It is also stated by the petitioners that the Defence Authority has raised certain constructions over the said land owned by the petitioners. The Defence Authority used to pay some meager amount as hiring charges to the petitioners. The petitioners

subsequently filed W. P. No. 26358 (W) of 2015 against the respondents praying for a direction of acquisition of the said land and payment of compensation. A Coordinate Bench of the High Court at Calcutta has passed the following order on 20th December, 2017:-

"Therefore, within the scope under Article 226 of the Constitution there being apparent violation of the statutory rights held at the instance of the general administration by depriving of the land losers to get the due amount in lieu of such lands and since none appears to represent the State respondents despite service of notice, far to speak of exercising any affidavit-in-opposition, the writ petition stands allowed by issuing writ in the nature of mandamus commanding the respondent no. 10, who being the designated District LA Collector, Darjeeling, to initiate at once the referential case, if not initiated earlier, for demarcation of acquired land followed by the assessment of compensation and payment in accordance with the present law – the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The entire exercise, if was not done earlier, shall have to be concluded within a period of one year from the date of communication upon opportunity of hearing to the petitioners and other interested persons and this period shall be inclusive towards disbursement of the compensation amount."

Subsequently the District Magistrate, Darjeeling wrote a letter to the Defence Estate Officer, Siliguri Circle stating, *inter alia*, that the Right to Fair Compensation and Transparency in Land Acquisition

Rehabilitation and Resettlement Act, 2013 has not yet been implemented in West Bengal as the Rules under the said Act have not been framed as yet. The Defence Estate Officer was requested to furnish the proposal of direct purchase of 3.29 acres of land following State Government's Land Purchase Policy laid down in Memo dated 25th February, 2016.

In spite of receipt of the said letter dated 24th January, 2018 the respondents no. 7 to 11 failed and neglected to take action on the basis of the proposal made by the District Magistrate, Darjeeling. On the contrary, they are still sitting tight over the matter sending letters to the District Magistrate Darjeeling raising number of questions as hereunder:-

"(i) Whether Memorandum No. 756-LP/1A-03/14(Pt-II) dated 25.02.2016 published in the Kolkata Gazette by the Government of West Bengal will remain applicable, if LARR Act, 2013 is implemented in the State of West Bengal.

(ii) Difference in financial implication due to direct purchase of land as per provision laid down in the Memorandum dated 25.02.2016 and compensation package payable under the provisions of LARR Act, 2013".

Be that as it may, the petitioners' prayer for acquisition of land and payment of compensation was already allowed in previous writ application. Subsequent to the framing of land purchase policy by the Government of West Bengal, the petitioners have moved the instant application stating that they are ready to accept compensation under the Land Purchase Policy set up by the Government of West

Bengal vide Memorandum dated 25th February, 2016. In view of such circumstances, the respondents no. 3 to 6 are directed to assess the present market value of the land in question owned by the petitioners under the control of the respondents no. 7 to 11. Such assessment shall be made within 3 weeks from the date of this order. The amount of direct purchase value shall be communicated to the petitioners and the respondents no. 7 to 11 within seven days thereafter. The respondents no. 7 to 11 are directed to acquire the land following direct purchase policy laid down by the Government of West Bengal on payment of purchased value so fixed by respondents no. 3 to 6 within a fortnight thereafter. The instant writ petition is, thus, allowed on contest, however, without costs.

The parties are at liberty to act upon the server copy of the order.

(Bibek Chaudhuri, J.)