

**IN THE HIGH COURT AT CALCUTTA**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**Present:**

**The Hon'ble Justice Jay Sengupta**

**WPA 23650 of 2014**

**Rajendra Kumar Saha & Anr.**

**Versus**

**State of West Bengal & Ors.**

|                           |   |                                                                           |
|---------------------------|---|---------------------------------------------------------------------------|
| <b>For the petitioner</b> | : | Mr. Golam Mustafa<br>Mr. Tarasankar Samanta<br>.....Advocates             |
| <b>For the State</b>      | : | Mr. Chandi Charan De, learned AGP<br>Mr. Haripada Maiti<br>.....Advocates |

**Heard lastly on** : 29.09.2022

**Judgment on** : 14.12.2022

**Jay Sengupta, J.:**

1. This is an application under Article 226 of the Constitution of India praying for directions upon the respondents not to treat the subject land of the petitioners in plot nos. 650 within Mouza Omaram, Police Station-

Roghunathganj, District Murshidabad as acquired land by the State and to treat the purported acquisition of land as lapsed, inoperative and/or void.

**2.** Learned counsel appearing on behalf of the petitioners submitted as follows. The petitioners were the owners of 8.5 decimals of land in plot no. 650 within Mouza-Umarpur, Police Station-Roghunathganj, District Murshidabad. They purchased the said land in September and October, 2012 by three separate deeds of conveyance from Setabuddin Sk. @ Setabur Rahaman, Latifun Bibi, Rofique Sk., Murtuja Shaikh and Rebina Bibi. They had purchased the property after being satisfied with the title of the vendors. Their names were mutated in the land records and they had been paying taxes up to date, even for the year 2002. After the petitioner's applied for conversion of land for construction of a house, the Panchayat duly gave permission. However, when the petitioners started construction work at the place the Collector, Murshidabad informed them that the subject land was acquired under the Land Acquisition Act. On 04.08.2014, the petitioners made a representation before the Collector refuting the allegations of acquisition and asserting their rights. But, the Collector did not respond. As regards the affidavit in question filed on behalf of the State, there were only bald allegations denying the claims of the petitioners. Even if it were assumed that the land was acquired in 2002, then the names of the vendors could not have been there in the records, far less in the name of Jangipur Regulated Market Committee till 2012. In fact, from the alleged notification dated 06.03.2012, it would appear that only some portions of plot no. 650 was acquired, except the middle portion. From the document annexed with

the opposition, it would appear that the details of amount payable to each, amount paid and the date of payment were blank. Therefore, nothing was paid to anyone in lieu of compensation. In the land schedule referred to in the opposition, there was no mention of plot no. 650. It is trite law that when a statute provided that a particular act should be done in a particular manner, the same should be done by the authorities in the manner as provided in the statute. Reliance was placed on *Maneka Gandhi versus Union of India*, (1978) SCC 248. The principles laid down in *M.S. Gill versus CEC*, (1978) 1 SCC 405 would support the contention of the petitioners that fair procedure was the soul of justice. No person should be deprived of his property except by authorities of law. This is enshrined in Article 300A of the Constitution. The relevant principles of law were laid down by the Hon'ble Supreme Court in *Laxman Lal versus State of Rajasthan*, (2013) 3 SCC 764; *Hindusthan Petroleum Corporation Ltd. versus Darius Shadpur Chenai*, AIR (2005) 7 SCC 627. In *Pune Municipal Corporations Case*, AIR 2014 SC 982, it was held that if the land was acquired, but compensation paid to possession of land was not taken, the acquisition proceedings shall be deemed to have been lapsed. An almost similar view was taken in *Union of India and others versus Shiv Raj*, AIR 2017 SC (Supp) 945. The State had never taken possession of the said land and as such, the alleged acquisition proceeding had lapsed.

**3.** Learned counsel appearing on behalf of the State submitted as follows. In 2001-02 the State initiated a proceeding of acquisition of plot no. 650 in question, of 0.61 acres out of 0.70 acres, except the middle portion.

This was done for setting up a principal market yard under Jangipur market. This was published in the Gazette and in the local newspapers. Notification under Section 4 of the Act of 1894 was published in 2002. A declaration under Section 6 of the said Act was published in the Kolkata Gazette dated 20.05.2002. An award was declared thereafter under Section 11 of the said Act in the names of the persons as found in the schedule and the possession of land was handed over to the requisitioning body on 28.03.2003. The proceeding under Section 11 of the Act was completed and the awardees took the award money. Some of them filed reference under Section 18 of the Act. In view of this, mutation of land recorded in favour of anyone else was non-est in the eye of law. The alleged purchase of land by the petitioners took place much later, after completion of the acquisition proceeding. In *V. Chandrasekharan and another versus Administrative Officer & Others* (2012) 12 SCC 133, it was held that a person who purchased land subsequent to the issuance of Section 4 notification was not competent to challenge the validity of the acquisition proceeding on any ground whatsoever for the reason that sale deed executed in his favour did not confer upon him any title and at the best he could claim compensation on the basis of the vendor's title. But, in the instant case the proceeding was complete after issuance of notifications under Sections 4, 6 and 11 and the awardees had taken the award money in respect of such land. In *Lila Ram versus Union of India* (1975) 2 SCC 5471, the Hon'ble Apex Court held that the anyone who dealt with land subsequent to such notification did so at his peril. In *Sneha Prabhu versus State of U.P.*, (1996) 7 SCC 426 it was held

that Section 4 notification would be viewed as a notice to the public at large. The alienation thereafter did not bind the State. The purchaser was only entitled to receive compensation. On this, reliance was placed on Union of India versus Shivakumar Bhargava, (1995) 2 SCC 427. In view of this, the sale of land after issuance of Section 4 notification was void and the purchaser could not challenge the acquisition proceeding. On this, reliance was placed on Tika Ram versus State of U.P., (2009) 10 SCC 689. The decisions of the Hon'ble Apex Court in Indore Development Authority versus Monoharlala & other (2020) 8 SCC 129; Market Committee versus Krishan Murari Case, 1996 1 SCC 311 and Putta Lal versus State of U.P. (1996) 3 SCC 99 where the concept of vesting was considered. Once vesting took place, the other person who remained in opposition was only a trespasser. Therefore, the petitioners were not at all entitled to the claim of release of land.

**4.** I heard the learned counsels for the parties and perused the writ petition, the affidavits and the written notes of submission filed by the parties.

**5.** It appears that in 2001-2002 the State initiated a proceeding for acquisition of major portion of the plot no. 650 in question, being 0.61 out of 0.70 decimal of land, except the middle portion. The object was setting up of a principal market yard under the Jangipur market. This was published in the Official Gazette and in the local newspapers. A notification under Section 4 of the Act of 1894 was published in 2002, a declaration under Section 6 of the said Act was published in the Kolkata Gazette dated

20.05.2002 and an award was declared under Section 11 of the said Act in the names of the persons found in the schedule. The possession of land was handed over to the requisitioning body on 28.03.2003. The proceeding was complete and the awardees purportedly took the award money. In fact, some of them filed references under Section 18 of the Act.

**6.** On the other hand, the present petitioners allegedly purchased the land in question in September and October, 2012. This was done by 3 separate deeds of conveyances. Their names were purportedly mutated in the land records and they paid the taxes. When the petitioners started construction work at the place of they were intimated by the Collector, Murshidabad that the subject land was acquired. The petitioners made a representation in 2014, which went unanswered.

**7.** Therefore, the petitioners admittedly purchased the land in question after conclusion of the proceedings in terms of Sections 4 and 6 of the Act of 1894. In fact, in the instant case, the award was also declared as per Section 11 of the said Act.

**8.** In *V. Chandrasekharan (supra)*, the Hon'ble Supreme Court held that a person who purchased land subsequent to the issuance of Section 4 notification was not competent to challenge the validity of the acquisition proceeding on any ground whatsoever for the reason that the sale deed executed in his favour did not confer him any title.

**9.** It goes without saying that the mutation of names in the land records does not vitiate the actions taken in terms of Section 4, 6 and 11 of the 1894 Act.

**10.** In Lilaram (supra), the Hon'ble Apex Court held that anyone who dealt with land subsequent to Section 4 notification did so at his peril. A subsequent alienation did not bind the State. The purchaser was only entitled only to receive compensation.

**11.** Learned counsel for the State quite rightly relied on the decisions of the Hon'ble Apex Court on the concept of vesting. Once vesting takes place, the other person, if any, remaining in possession of such land was to be treated as a trespasser.

**12.** Moreover, the petitioners have failed to satisfy this Court that their land fell within the portion not acquired by the State.

**13.** In view of the above discussions, I do not find any merit in this application.

**14.** Accordingly, the same is dismissed.

**15.** However, there shall be no order as to costs.

**16.** Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

**(Jay Sengupta, J.)**