

04 02.08.2023
RP Ct. No. 01
AN

MAT 258 of 2023
with
IA No. CAN 1 of 2023

Dharam Chand Agarwal
Vs.
State of West Bengal & Ors.

Mr. Supriyo Chattopadhyay
Mr. Sudip Kumar Maiti
Ms. Debosri Chatterjee
... For the Appellant

Mr. Amitesh Banerjee
Mr. Tarak Karan
... For the State

Mr. Alak Kr. Ghosh
Mr. Swapan Kr. Debnath
Mr. Manojit Pal
... For the KMC

1. This intra-Court appeal is directed against the order dated 07.02.2023 by which the writ petition being WPA 17214 of 2021 was dismissed. The appellant claimed to be the Managing Trustee of a Welfare Trust and sought for issuance of declaration that respondent nos. 2 and 3 being the Kolkata Police Authorities and respondent no. 4 being the Kolkata Municipal Corporation do not have any right and authority to hold and possess the land owned by the appellant. The appellant also sought for issuance of writ of mandamus to direct the Police Authorities to remove the damage vehicle which have been kept in the said premises by the Police Authorities. The learned writ court had dismissed the writ petition on the ground that the appellant does not have any locus standi to seek for such a direction.

2. During the course of hearing, by order dated 17.11.2022, the learned Single Judge directed the Authorities to file a report and accordingly, the 5th respondent herein being the Collector, Land Acquisition Department filed a report in the form of an affidavit. The relevant portion of the report is as follows:

“a) The suit plot nos. being RS plot no. 9 (full) an area 0.20 acre, RS plot no. 10 (full) an area 0.23 acre, RS plot no. 6 (part) an area 0.69 acre and RS plot no. 12 (part) an area 1.24 acre of mouza-Paschim Chowbaga, under J.L. No. 9, Police Station. Tollygunge were acquired in L.A. Case no. LA- Case no. LA-II/9 of 1968-69 for dumping of garbages of the city of Calcutta.

b) The Notification regarding such requisition was published in the Calcutta Gazette on 21.12.1972 vide No. 24-PARGANAS-NO.18817-L.A./4M-12/68dated 19.12.1972.

c) By the above Notification dated 19th December 1972. A total 18.22 acres (7.3733 hectares), more or less, of land situated in or near the villages of Paschim-Chowbaga have been requisitioned under subsection (1) of section 3 of the West Bengal Land (Requisition and Acquisition) Act, 1948 for the public purpose of maintaining supplies and services essential to the life of the community, namely, for dumping of garbages of the city of Calcutta;

Xerox copy of the Notification No. 24-PARGANAS-NO.18817-L.A./4M-12/68dated 19.12.1972 published in the Calcutta Gazette on 21.12.1972 is annexed herein and marked as letter – R1.

d) The possession of the above suit plot nos. being RS plot no. 9 (full) an area 0.20 acre, RS plot no. 10 (full) an area 0.23 acre, RS plot no. 6 (part) an area 0.69 acre and RS plot no. 12 (part) an area 1.24 acre of mouza-Paschim Chowbaga, under J.L. No. 9, Police Station. Tollygunge was handed over to the representative of Calcutta Corporation on 13.05.1969.

Xerox copy of the Copy of the Possession Certificate dated 13.05.1969 is annexed herein and marked as letter-R2.

e) Subsequently award was declared on 31.03.1973 for the above suit plots.

f) The writ petitioner no locus to challenge the acquisition and the use of the land in question, because the writ petitioner had purchased the vested land in the year 2006 long after the said acquisition process was completed.

g) No legal right has been accrued upon the writ petitioner in respect of the said land in question, as he has illegally purchased the vested Government and now claiming the same as his own."

3. From the above report it is seen that the land in question was acquired for dumping of garbage of the City of Kolkata namely for public purpose and a notification in this regard was issued under the provisions of West Bengal (Requisition and Acquisition) Act, 1948 by notification dated 19.12.1972. Thereafter, the notification was published in the Kolkata Gazette on 21.12.1972. Possession of the land in question was handed over to the representative of the Kolkata Municipal Corporation on 13.05.1969 and subsequently an award was declared on 31.03.1973. It is the admitted case of the appellant that he had purchased the land in 2006. The appellant has no jurisdiction to either question the acquisition proceedings or seek for any relief sought for in the writ petition as he alleges that the land was purchased in 2006 that is much after the award was passed on 31.07.1973.

4. After completion of the requisition proceedings,

the land in question is deemed to have been vested with the State free from all encumbrances for public purpose for which it was requisitioned or for any other public purpose that the authorities may deem fit and proper to put the land in question for use. Thus, the learned Single Judge was fully justified in rejecting the prayer sought for in the writ petition.

5. In the result, the appeal fails and is hereby **dismissed**. Consequently, the connected application also stands dismissed.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)