

November 24, 2023
ARDR (18)

WPA 8572 of 2023

Sambhu Mondal
Vs.
The State of West Bengal & ors.

Adv. Pappu Adhikari
...for the petitioner.
Adv. Sk. Afrojul Haque,
...for the respondent no.6.
Adv. Soumitra Bandyopadhyay,
Adv. Priyabrata Batabyal,
...for the State.

Heard learned counsels for the parties.

The grievance of the petitioner is that though his property was acquired by the State respondents vide L.A. case no. 84/97-98 and he is entitled to a rehabilitation plot in terms of the notification issued by the Government of West Bengal, Land & Land Reforms Department, Land Acquisition Branch, being 1208-LA(II)/File no.60-31/89 Part dated 20th April, 1993, the petitioner's request for allotment of such rehabilitation plot was turned down by the authority on the ground that the petitioner was a minor when his plot was acquired and his father was granted a rehabilitation plot previously as legal guardian of the petitioner.

The notification dated 20th April, 1993 enumerates that the persons losing homestead land up to 0.03 acres will be allotted half plot measuring 0.04 acres and persons losing more than 0.03 acres will be allotted full plot measuring 0.04 acres. The notification also says that an awardee identified as family should not get any land as the

authority is to take care of his family at the time of eviction only. The term “family”, according to the notification, includes parents, minor children and unmarried daughter.

The plot owned by the petitioner’s father was acquired vide L.A. case no. 09/74-75 and rehabilitation plot was allotted in his favour. By a separate acquisition proceeding being L.A. case no. 84/97-98, the petitioner’s plot was acquired. Admittedly the petitioner was a minor at that time.

The notification dated 20th April, 1993 does not debar a minor from obtaining a rehabilitation plot in lieu of acquisition of his plot by the State. The notification says that a family member of an awardee is not entitled to a separate rehabilitation plot. In the earlier acquisition, the petitioner’s father was allotted a rehabilitation plot and in terms of the notification, no member of his family was entitled to a separate plot in respect of the said acquisition. The petitioner’s land was acquired by a subsequent and separate acquisition proceeding and has no nexus whatsoever with the earlier proceeding where rehabilitation plot was granted in favour of the petitioner’s father. The petitioner being the recorded owner of the plot acquired vide L.A. case no. 84/97-98, was/is entitled to a rehabilitation plot measuring 0.04 acres in terms of the notification.

Record reveals that such allotment was recommended by the Rehabilitation Advisory Committee in favour of the petitioner by an order passed on 8th July,

2015 and the petitioner was granted liberty to file an application before the Haldia Development Authority for allotment of rehabilitation plot. Strangely, upon the petitioner submitting such application in terms of the recommendation made by the authority, the application was turned down by the Special Land Acquisition Officer solely on the ground that the petitioner was a minor at the relevant time and rehabilitation plot was allotted to his father who was his legal guardian.

It is crystal clear from the material on record that the rehabilitation plot was allotted to the petitioner's father earlier for acquisition of his land and not as legal guardian of the petitioner though the petitioner may have been a member of his family at the relevant time. Since the plot owned by the petitioner has been acquired subsequently by a separate acquisition proceeding, the petitioner is entitled to a rehabilitation plot in terms of the said notification. It is also not understood as to why despite recommendation made in favour of the petitioner by the Rehabilitation Advisory Committee and liberty granted to the petitioner for applying before the Haldia Development Authority for allotment of plot, the authority took a u-turn and chose to turn down the request of the petitioner.

In view of the fact that the land of the petitioner was acquired by a separate acquisition proceeding having no connection whatsoever with the earlier proceeding and also since the petitioner is entitled to allotment of rehabilitation plot in terms of the notification as recorded owner of the

plot despite being a minor at the time of acquisition of his plot and this Court inclined to hold that the order dated 2nd January, 2023 issued by the Special Land Acquisition Officer, Haldia, Purba Medinipur is devoid of merits and is liable to be set aside. When a plot owned by a minor was acquired, it was incumbent upon the authority to allot rehabilitation plot in favour of the minor and not withhold the same on the said ground, *moreso*, since the order of rejection passed by the authority is *de hors* the notification itself.

Accordingly, the order dated 2nd January, 2023 is set aside.

The recommendation issued by the Chairman, Rehabilitation Advisory Committee and Additional District Magistrate, Haldia on 8th July, 2015 is affirmed.

The Chief Executive Officer, Haldia Development Authority, being the 6th respondent herein, is directed to take necessary steps for allotment of rehabilitation plot in favour of the petitioner in terms of the notification dated 20th April, 1993 and the recommendation dated 8th July, 2015 within eight weeks from the date of communication of this order upon affording reasonable opportunity of hearing to all concerned including the petitioner, in accordance with law.

With the aforesaid observations and directions, the writ petition, being WPA 8572 of 2023 is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)