

July 24, 2023
ARDR
(25)

WPA 10150 of 2023

Amita Maity
Vs.
The State of West Bengal & Ors.

Adv. Sridhar Chandra Bagari,
Adv. Anita Khatri,
...for the petitioner.
Adv. Soumitra Bandyopadhyay,
Adv. Srinath Singha Roy,
...for the State.

Affidavit of service filed by the petitioner is taken
on record.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that out of the land owned by the petitioner, eleven decimals were encroached upon by the State respondents and no compensation has been paid to the petitioner for the same. Pursuant to an earlier order of this Court passed on 9th June, 2014 in WP 14710 (W) of 2014, a representation submitted by the petitioner before the concerned authority was disposed of contending that eleven decimals of land was extra land not belonging to the petitioner and was not encroached upon by the authority. The said order was challenged by the petitioner in a writ petition being no. 30211 (W) of 2014 which was dismissed by an order passed on 24th August, 2018. The order was carried in appeal by the petitioner and an Hon'ble Division Bench of this Court, by an order

passed on 6th March, 2019 in MAT no.1218 of 2018 set aside the orders passed on 9th October, 2014 by the District Magistrate as well as the order under appeal passed on 24th August, 2018 with an observation that the land measuring eleven decimals could not have been extra land and the original holding of the petitioner was affected by the encroachment. In other words, the Court held that eleven decimals of the land in question were part and parcel of the land belonging to the petitioner. Pursuant to such observation, the petitioner approached the concerned authority claiming compensation for utilisation of the portion of her land without acquisition.

Learned counsel for the petitioner submits that no step has been taken by the authority for redressal of the petitioner's grievance till date.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that in view of the observation/direction of the Hon'ble Division Bench, the State respondents are left with two options:-

- a) to purchase the land directly from the petitioner at the prevalent market rate, and
- b) to acquire the land in accordance with law and pay compensation for the same to the petitioner;

In view of the above, the writ petition is disposed of directing the 2nd respondent to take necessary steps for direct purchase of the land in question or for acquisition of the same in accordance with law followed by payment

of compensation to the petitioner, upon affording reasonable opportunity of hearing to all the interested persons including the petitioner.

The entire exercise is expected to be completed within four months from the date of communication of this order.

With the above directions, WPA 10150 of 2023 is disposed of.

There shall however, be 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 on usual undertakings.

(Suvra Ghosh, J.)