

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA/15508/2013

Dr. Debnarayan Mondol & Anr.

-Vs-

State of West Bengal & Ors.

For the Petitioners: Mr. Debasish Das, Adv.,

Hearing concluded on: 02 August, 2023.

Judgment on: 17 August, 2023.

BIBEK CHAUDHURI, J. : –

1. The State Government issued notification under Section 4 of the Land Acquisition Act, 1894 for acquiring the land of the petitioners as well as other plots of land situated within the jurisdiction of Kharagpur Police Station in the district of Paschim Mednipur for public purpose, viz, Employment Generation and Socio-Economic Development of the area by setting up Telcon & Allied Industrial Units on 27th November, 2006. The petitioners purchased 60 decimals of land comprising in Plot No.93, Mouza- Ruisanda in the district of Paschim Medinipur by a registered deed of sale on 28th November, 2003. Notice under Section 4 of Act 1 of 1894 was challenged by the petitioners by filing a writ application being WP No.22963(W) of 2008 and the application is still pending before this Court. It is further stated by the petitioners that after publication of notice

under Section 4 of the Land Acquisition Act, 1894 the LA Collector issued a direction under Section 6 of the Act 1 of 1894, thereby declaring the land to be required for public purpose. The writ petition is however silent in respect of the fact as to whether after declaring under Section 6 of Act 1 of 1894, the LA Collector directed to take order for acquisition of land under Section 7 and the subsequent action has contemplated in Section 9,10,11 and finally 16 of the Act 1 of 1894. It is further stated by the petitioners that after taking over possession of the subject land it was handed over to the West Bengal Industrial Development Corporation Ltd., the respondent No.7 herein. It is also stated by the petitioners that no industrial set up was constructed by the state government or its agency for public purpose. On the contrary the petitioners came to learn from the respondent No.8 on 13th May, 2013 that the respondent No.7 herein executed a deed of lease in favour of Ganapati Flour & Foods Private Ltd., the respondent No.8 herein for the purpose of setting up a unit of flour mill/Atta mill accessories spare parts and wheat products on land of the petitioners on 11th September, 2011. The petitioners came to learn from the said deed of lease that the Collector, Paschim Mednipur had acquired the subject plot of the petitioners along with other plots for public purpose for developing Vidyasagar Industrial Parks for setting up manufacturing industries but the land was subsequently allotted to private company to set up its factory/mills. It is also alleged by the petitioners that before setting the said land in favour of the respondent No.8, the respondent did not take any permission of this Court in WP

No.22963(W) of 2008. The petitioners have also alleged that the respondent cannot acquire one plot of land for two different public purposes. Therefore the deed of lease executed in favour of Ganapati Flour & Foods Private Ltd., is illegal, arbitrary and mala fide. It is further stated by the petitioners that the respondent No.6 sought to acquire the subject land and other adjoining land under the Land Acquisition Act, 1894 declaring that the said land has planning under the West Bengal Town and Country (Planning and Development) Act, 1979 under notification No.377-T & CP/1S-4/93 dated 5th November, 1993 and the said under the public notice dated 15th July, 2005 issued under Section 45 and 56 and the West Bengal Town and Country (Planning and Development) Act, 1979, no further acquisition is permissible in respect of the said land. Under the above stated facts the petitioners have prayed for issuance of a Writ in the nature of Mandamus commanding the respondent from giving any fact or further effect to the impugned deed of lease which was made between the West Bengal Industrial Development Corporation Ltd. and Ganapati Flour & Food Private Ltd. in respect of the land of the petitioners and commanding the respondent not to acquire the acquired said land of the petitioners for development of Vidyasagar Industrial Park for setting up manufacturing industries etc.

2. I have heard Mr. Debasis Das, learned Advocate for the petitioner that the State Respondents did not take part in course of hearing of the instant writ petition.

3. It is submitted by Mr. Das, learned Advocate for the petitioner that Section 4(1) of the Land Acquisition Act, 1894 provides for the publication of the preliminary notification for acquiring any land in three loans, viz., in the Official Gazette, in the daily newspaper circulate in that locality of which one shall be in the regional language and at the convenient places in the locality where the Collector is enjoined to publish a subsistence of the notification. The notification must speak of the government intention that the land needed is likely to be needed for any public purpose. Setting up of private company is not a public purpose for which West Bengal Industrial Development Corporation leased out the property of the petitioner in favour of respondent No.8 in the year 2013.

4. The learned Advocate for the petitioner has also shown the photograph of the plot of land originally belonging to them and submits that till date respondent No.8 did not set up any flour mill or factory on the land. Considering such aspect of the matter it is submitted by the learned Advocate for the petitioner that the lease deed executed by WBIDC in favour of the respondent No.8 may be cancelled.

5. It is not in dispute that the acquisition process was started in the year 2006. The land has been transferred to WBIDC for setting up industrial park for the purpose of augmentation of job for unemployed persons. For that, in view of the matter respondent No.8 was given land in respect of the property in question, the petitioners cannot have right to raise object.

6. For the reason stated above, I do not find any merit in the instant writ. The writ petition is accordingly dismissed.

(Bibek Chaudhuri, J.)