

Form J(2)

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

Present :

The Hon'ble Justice Bibek Chaudhuri

WPA 17026 of 2015

Birendra Nath Ghosh

Vs.

The State of West Bengal & Ors.

**For the petitioner : Mr. Tulshi Das Ray, Adv.
Mr. Tapan Ray, Adv.
Mr. Thirthankar Ray, Adv.
Ms. Alina Mondal, Adv.**

Heard on : 15.06.2023.

Judgment On : 15.06.2023.

Bibek Chaudhuri, J.

Vide Government of West Bengal, Finance Revenue Department Notification No.1692-FT dated 24th November, 2016, it was declared that no stamp duty and registration fees would be chargeable on the deed of direct purchase of land by various departments of the Government as per the decision of the Direct Land Purchase Committee (DLPC) constituted under Land and Land Reforms Department, Memo No.3145-LP dated 24th November, 2014 through the concerned Zilla Parishad or Municipal Corporation.

Bearing the content of the notification in mind, let me now state in short the fact of the case. The petitioner and one Dharendra Nath Ghosh were the recorded plot owners in respect of plot No.806, J.L No.12 Mouza-Baganchara measuring about 39 decimal and 41 decimal of land respectively, total being 80 decimal of lands.

By memo no.462 dated 16th September, 2009, the Executive Engineer, Nadia Arsenic Division-I under Public Health Engineering Directorate issued a letter proposing acquisition of above-mentioned land for the purpose of Water Supply Scheme. Subsequently, land was acquired but no compensation was paid. Even no proceeding under the Land Acquisition Act was initiated against the petitioner in respect of the acquired land for fixation of compensation etc. Subsequently, the petitioner, namely Birendra Nath Ghosh has filed the instant writ petition praying for issuance of writ of mandamus commanding the respondents to determine and pay compensation in question to the petitioner in respect of the land measuring 44 decimals in plot Nos.806 and 794 of Mouza Baganchara under Santipur Police Station under the relevant provision of the Right to Fair Compensation and Transparency in Land (Acquisition, Rehabilitation and Resettlement) Act, 2013. During the pendency of the instant writ petition, the respondents were duly served and they

appeared and filed report in the form of affidavit and supplementary report in the form of an affidavit through the respondent No.2 herein.

It is found from the initial report in the form of affidavit filed by the respondent No.2 that the respondents proposed to purchase the acquired land by way of Direct Purchase Scheme through Sabhapati, Santipur Panchayat Samity.

The matter was then referred to the Zilla Parishad, Nadia and Sabhapati, Zilla Parishad proposed direct purchase of the land in question at a consideration price of Rs.36,47,631/- only being the present market value as on 10th April, 2023.

The grievance of the petitioner is that the acquired plot of the petitioner in Dag No.806 was wrongly calculated by the Nadia Zilla Parishad in collusion with the State respondents because of the fact that an agricultural land being plot Nos.221 and 222 measuring about 33 decimals was acquired by the same Zilla Parishad at a consideration price of Rs.5,22,44,577/-. The said plots of land, value of which was fixed at much higher rate than that of the land in question is agricultural land. However, the lands belonging to the petitioner is described as commercial land. Therefore, the valuation of the commercial land measuring about 44 decimal in two Dag numbers bearing LR 806 and LR 794 measuring about 44 decimal of land would be more than the purchase value of plot No.L.R.221 and

L.R.222. In fact, the petitioner has submitted e-Assessment Slip issued by the Directorate of Registration & Stamp Revenue, Government of West Bengal which shows that the present market value of the land is 1,49,22,136/-.

The learned Advocate for the petitioner draws my attention to an order dated 2nd May, 2023 wherein a Coordinate Bench observed that the petitioner is not agreeable to the rate which is now being offered by the State respondents for direct purchase of the land surrendered by the petitioner and utilised by the respondent authorities because similar kind of land located about a mile away was purchased by the Zilla Parishad at the rate of Rs.15 lakhs per decimal, whereas a rate which is less than Rs.1 lakh per decimal is being offered for the petitioner's land under the direct purchase policy.

It is observed by the Co-ordinate Bench in the order dated 2nd May, 2023 that either the rate, which is being offered to the petitioner is quite whimsically low or there is a scam involved for purchase of other lands at such a high rate.

It was submitted on behalf of the State respondents that there is qualitative difference between the two lands. Record of rights of both the lands are placed before this Court. It is found that the land in which higher rate was offered by Nadia Zilla Parishad is agricultural

land while the land in question of the petitioner is recorded as commercial land which must be of greater financial value.

Having heard the learned Advocate for the petitioner, this Court is of the firm view that some financial scam was committed by the Nadia Zilla Parishad, head of which is the Sabhapati of the Zilla Parishad and the Officers of the concerned department inasmuch as the Sabhapati, Nadia Zilla Parishad at least wanted to offer higher rate of purchase value in respect of some persons and thereby siphoning out of the Government money illegally in collusion with the land owners and the concerned Government department.

In view of such circumstances, this Court is of the considered opinion that the matter relating to fixation of purchase value in the deed of sale executed by the Secretary to the Nadia Zilla Parishad in favour of Rahaman Sk. suffers from illegal consideration with dishonest intention and forgery.

Therefore, the copy of the said deed of sale along with a copy of this order be sent to the Director, C.B.I. for holding a preliminary inspection and, thereafter, if it is found that Nadia Zilla Parishad and/or its Office bearers and other Government Officials are in connivance to fix higher rate of purchase value above the market value in respect of some land, he is entitled to draw an FIR against the concerned

members of Zilla Parishad, Nadia and other Government Officials and proceed with the case in accordance with law.

Coming to the instant writ petition, the writ petition is disposed of directing the Nadia Zilla Parishad and respondent No.2 to assess the valuation of land as per e-Assessment Slip dated 30th March, 2023 and pay compensation with interest to the petitioner within 60 (sixty) days from the date of this order.

The petitioner is directed to supply a server copy of this order and a copy of e-Assessment Slip to the Sabhadhipati, Nadia Zilla Parishad and Executive Engineer, PHE, Nadia, respondent No.2 at the earliest for necessary action.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.14.***