

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta.

W.P.A 26975 of 2015

Chandan Kumar Jana & Ors.

Vs.

The State of West Bengal and others.

For the Petitioners : Mr. Debasish Das

For the State : Mr. Naba Kumar Das

Heard on : 03.01.2023

Judgment on : 03.01.2023

The Court: This is an application praying for a direction upon the respondent authorities not to give effect or further effect to the order passed in Misc. Case No. 1 of 2015 and commanding the respondent nos. 2 and 3 to execute a deed of relinquishment in favour of the petitioners in respect of the plot of land being no.599, Mouza-Purusottompur, measuring about- 6-1/2 decimals in terms of the

notice being Misc. Case No. 78 of 1953-54, P.W.L.A. Case No. 3 of 1946-47 and deliver possession to the petitioners immediately.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the owners of the land in question. On 11.08.1951 the Land Acquisition Collector, Midnapore, issued a notice for acquisition of certain land. On 20.08.1953, Land Acquisition Collector, Medinipur published a map showing the area not to be required for Contai-Belda Road, but the said area previously acquired in L.A. Case No. 3 of 1946-47. On 11.12.2002, the Executive Engineer, Division- II, Paschim Medinipur issued memo no- 4573/E dated 11.12.2002 to the Chairman, Egra Municipality, Purba Medinipur for construction of drain. On 10.06.2013, the petitioners made an application before the authority concerned for the deed of conveyance in respect of the relinquished surplus land of the petitioners. As the petitioners were not granted any relief, they moved a writ petition being WP NO. 24957 (W) of 2014. By an order dated 04.09.2014, this Court directed the Land Acquisition Collector, Purba Medinipur to dispose the representation of the petitioners by passing a reasoned order within the stipulated time. On 10.06.2015, the Land Acquisition Collector started Misc. Case No. 1 of 2015 and passed a final order on such date stating, inter alia, that the portion of land was required by the P.W. Department for future development work. It

effectively rejected the petitioners' claim. At present, the petitioners pray for a direction upon the respondent authorities to demarcate the 50 feet of land in terms of the sketch map dated 23.09.2003 in order to ascertain land acquired and relinquished by them. In a similar application being WPA 22687 of 2015, this Court, by an order dated 07.03.2022, allowed such prayer of the petitioners therein and directed the respondent no.3 therein to demarcate the land in question.

Learned counsel appearing on behalf of the respondents submits as follows. It is true that an order dated 07.03.2022 has been passed by this Court in WPA 22687 of 2015 directing the respondent authorities to demarcate the land in question. In the present case, the road in question and the L.A. Case are the same. However, if any such demarcation is to be done, the same may be done in presence of the parties interested.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition.

It appears that the prime contention of the petitioners at present is that the land needs to be first demarcated so as to ascertain the portion of land acquired and relinquished by the respondent authorities. There is much merit in this contention.

It also does not appear that the order dated 07.03.2022 passed in WPA 22687 of 2015 has been set aside.

In view of the above and in the interest of justice, I set aside the impugned order and I direct the respondent no.3 herein to demarcate the land in question in presence of the petitioners or his representative in terms of the sketch map prepared by the authority on 20.08.1953. This exercise should be completed within three months from the date of communication of this order.

With these directions, the writ petition is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)

