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W.P.A. 27359 of 2022

with

W.P.A. 16325 of 2019

Re: WPA 27359 of 2022

(Pijush Bhowmick and & Anr. vs. State of West Bengal & Ors.)

Mr. Amit Kr. Pan

Ms. Tanusri Santra

.... For the Petitioners

Mr. Chandi Charan De

Mr. Anirban Sarkar

.... For the State

Mr. Satyajit Talukder

Ms. Piu Karmakar

.... For the KMDA

It is submitted on behalf of the petitioners that the petitioners have purchased 0.05 acres of land in Plot No. 4038 comprising 1.33 acres in Mouza Kasba, J. L. No. 13, Police Station-Kasba, District South 24 Parganas. By virtue of two acquisition cases being LA-II/15 of 1970-71 and LA-II/2 of 1977-78 respectively, 0.28 acres and 1.004 acres were acquired by the State respondents and compensation paid to the then owners for the same. The petitioners claim demarcation of the acquired portion of the plot in order to enable them to utilise the unacquired portion purchased by them.

Learned counsel for the petitioners draws the attention of the Court to Section 9(c) of the West Bengal Land (Requisition and Acquisition) Act, 1948 which demonstrates that the State Government may, for the purpose of determination of the amount of compensation payable under the Act, authorise any person to perform in respect of any land all or any of the functions referred to in sub-section(2) of Section 4 of the Land Acquisition Act, 1894.

Section 4(2) of the Act of 1894 empowers any officer authorised by the Government to enter upon and survey and take levels of any land and set out boundaries of the land proposed to be taken for any public purpose.

Placing reliance on the report in the form of affidavit submitted by the State respondents, learned counsels for the respondents submit that out of the entire area of 1.33 acres of the plot in question, 1.284 acres have been acquired. Therefore the unacquired portion of the plot is 0.046 acres and the portion of the plot purchased by the petitioners comprising 0.05 acres include the acquired portion of the plot. Learned counsel further submits that each of the petitioners claim to have purchased 3 cottahs of land in the said plot which amounts to 6 cottahs within the entire 1.33 acres.

Learned counsel for the petitioners candidly submits that he claims demarcation of the acquired portion of the plot in question and shall claim interest in respect of the remaining portion thereof.

In view of the above, this Court is inclined to hold that the acquired portion of the plot being 1.28 acres need to be demarcated by the State respondents in terms of the provisions laid down in Section 4(2) of the Act of 1894 in order to ascertain the portion and boundaries of the land acquired.

Accordingly, the writ petition is disposed of directing the third respondent to take necessary steps for demarcation of the acquired portion of the plot being 1.284 acres in presence of the petitioners/their authorised representatives and the requiring body and conclude such demarcation within two months from the date of communication of this order.

Such report be communicated to the petitioners within a week thereof.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

Re: WPA 16325 of 2019

Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal
.... For the State

None appears for the petitioner. No accommodation is sought.

It appears that the petitioner is no longer interested in proceeding with the matter.

Accordingly, WPA 16325 of 2019 and the application are dismissed for default.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)