

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 1168 of 2021

**Amrit Das & Anr.
-Versus-
State of West Bengal & Ors.**

**For the Petitioners : Mr. Sanjay Mazoomdar,
Mr. Sukanya Adhikary.**

**For the State : Mr. Hirak Barman,
Mr. Pretom Das.**

**For the SJDA : Mr. Raja Saha,
Ms. Bedashruti Bose.**

Heard & Judgment On : 8th February, 2023.

Bibek Chaudhuri, J.

Grievance of the petitioners is that though they are owners by purchase of a piece of land which was acquired long way back in 2004, they were not paid any compensation by the Special Land Acquisition Officer, respondent no. 2 herein.

It is the case of the petitioners that petitioners are owners of plot nos. 53/220 and 53/222 appertaining to Khatian No. 278/22 of Mouza – Dubgram within P.S.-Bhaktinagar, Jalpaiguri by virtue of a

deed of purchase executed and registered on 18th June, 2004. The said two plots were acquired by the Collector and District Magistrate, Jalpaiguri in LA proceeding no. 18/03-04. The petitioners came to know about such acquisition on receipt of the notice no. 1282/LA dated 22nd August, 2006 under Section 9 Sub-Sections 3 and 4 of the LA Act, 1894. After receipt of such notice the petitioners made a representation on 6th July, 2007 stating, *inter alia*, that they are the lawful owners of the said land by purchase but after purchase the land was not mutated in their names. It is also alleged that the petitioners were not paid compensation in respect of being the owners of the said lands. Subsequently on 24th August, 2015 the petitioners received a notice issued by the District Magistrate and Collector, Jalpaiguri to take part in the hearing regarding payment of compensation on 28th August, 2015. The petitioners duly appeared in the hearing. However, the result of the hearing was not communicated to the petitioners. In the meantime, the petitioners came to know on 15th July, 2015 that no payment was made in favour of the petitioners and full payment of compensation has been made in favour of 42 awardees. Therefore, petitioners cannot be treated as awardees in the opinion of the said Land Acquisition Officer.

Subsequently, the petitioners made series of representations but the respondents did not pay any heed to such representation. By

a letter dated 24th December, 2020 written by the Special Land Acquisition Officer, respondent no. 2 herein that Deed No. 4002 of 2004 was registered in the office of the District Registrar, Jalpaiguri and no subsequent transfer was made in respect of the disputed plots of land. Thus, the petitioners are entitled to get compensation and by filing the instant writ petition they have prayed for a direction upon the respondent no. 2 to consider their case for payment of compensation and to treat them as awardees.

The State respondent has not filed any affidavit-in-opposition. However, Affidavit-in-opposition has been filed by the respondent no. 3, Siliguri Jalpaiguri Development Authority (SJDA). Learned Advocate for the petitioners draws my attention to page no. 5 of the said affidavit-in-opposition where SJDA stated on oath that the said two plots measuring about 3.66 acres were acquired by the Collector, Jalpaiguri and award was declared and disposed in the name of 42 awardees where the names of the petitioners were not found in the list of awardees. They failed to establish their ownership over the plots in question before the Collector, Jalpaiguri.

It is submitted by the learned Advocate for the petitioners that during the hearing of acquisition procedure, no notice was served upon the petitioners. Therefore, they did not get any opportunity to place their case before the Collector.

Learned Advocate for the State respondents, on the other hand, submits that in the instant case entire compensation proceeding is complete and the award has been disbursed in favour of 42 awardees. The petitioners are disputing the claim of the awardees pleading, *inter alia*, that they are the rightful owners of the property in question. Therefore, the petitioners have raised a dispute regarding ownership and payment of compensation of land in question. The Writ Court is not in a position to adjudicate as to whether the petitioners or the awardees in favour of whom award has already been made for the rightful title or not. In order to prove the title and to get the compensation the petitioners are required to file a civil suit before the competent Court.

Section 30 of the Land Acquisition Act, 1894 states as follows:-

"30. Dispute as to apportionment.- When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court."

In the instant writ petitions, the dispute relates to issue as to whether there should be apportionment of compensation and if so to whom the same or any part thereof is payable and thirdly whether the

petitioners are the rightful owners of the properties acquired and entitled to get compensation or not.

The above-mentioned issues cannot be answered in a writ proceeding. Therefore, this Court is not in a position to grant any relief to the petitioners. However, the petitioners are at liberty to file appropriate application before the Collector under Section 30 of the Land Acquisition Act, 1894 in order to refer such dispute for the decision of the Civil Court.

Since the petitioners have been diligently proceeding with the instant writ application they are entitled to get relief under Sections 12 and 14 of the Limitation Act if such issue is raised by the proposed defendants.

With the above observation, the instant writ petition is disposed of.

(Bibek Chaudhuri, J.)