

09.09.2024
Sl. No.3&4
Ct. No.15
S.A.

**WPA 972 of 2024
CAN 1 of 2024**

**Messrs J. K. Overseas Private Limited
-vs-
The Kolkata Municipal Corporation & Ors.**

with

WPA 443 of 2024

**Messrs J. K. Overseas Private Limited
-vs-
The Kolkata Metropolitan Development
Authority & Ors.**

Mr. Partha Chakraborty
Mr. Supratim Dhar
Mr. Archishman Chakraborty
Ms. Debanjali Payra

...for the petitioner

Mr. K. J. Yusuf
Ms. Munmun Ganguly
...for the State in WPA 972 of 2024
Mr. Debjit Mukherjee
Ms. Priyanka Jana

...for the State in WPA 443 of 2024
Ms. Piyali Sen Gupta
Mr. Sundar Gopal Bhattacharyya
...for Kolkata Municipal Corporation

Mr. Satyajit Talukdar
Mr. Arindam Chatterjee
...for Kolkata Metropolitan Development
Authority

The petitioner in the earlier writ petition (WPA 25221 of 2022) approached this Court with the grievance that they had purchased a plot in Dag No. 3727, J.L.No.13, Mouza-Kasba, P.S. – Kasba, District-24 Parganas (South) by virtue of a registered Deed of Conveyance dated October 13, 2014. The petitioner alleged that a portion of the plot is classified as

acquired land. Consequently, the petitioner sought a demarcation of the entire plot in order to facilitate the utilization of their portion of the land.

A Coordinate Bench of this Court, by order dated February 10, 2023, directed the Collector, 24 Parganas (South) to consider the petitioner's representation and issue an order. Pursuant to this order, the Land Acquisition Collector issued an order on April 11, 2023, indicating that Land Acquisition Case No. 4/32 of 1999-2000, which pertained to plot no. 3727, had been dropped. The Land Acquisition Collector therefore concluded that the petitioner's claim for demarcation in relation to the acquired portion was unsubstantiated.

Subsequently, the petitioner applied for a sanctioned plan from the Kolkata Municipal Corporation (KMC). However, the Kolkata Municipal Corporation sought clarifications from the Kolkata Metropolitan Development Authority (KMDA). Initially, KMDA responded on September 1, 2023, stating that R.S. Dag No. 3727 was not affected by any KMDA project. Nonetheless, a subsequent letter from KMDA dated September 15, 2023, informed the Executive Engineer, Borough-XII of the Kolkata Municipal Corporation that plot no. 3727 overlaps with plot no. 3726, which KMDA had fully acquired. On October 30, 2023, KMC approved the building plan submitted

by the petitioner. On December 8, 2023, KMDA reiterated this position and requested the Kolkata Municipal Corporation to revoke the sanctioned plan.

In response, the Kolkata Municipal Corporation issued a stop-work notice dated January 9, 2024, against the petitioner.

The petitioner filed WPA 443 of 2024 to challenge the KMDA's letters dated September 15, 2023, and December 8, 2023, and WPA 972 of 2024 to challenge the stop-work notice issued by the Kolkata Municipal Corporation.

The petitioner contended that his entire land falls within plot no.3727.

Upon hearing the parties, this Court was confronted with the issue of whether the land purchased by the petitioner, measuring 4 Cottah 13 Chittack and 35 sq. ft., is part of plot No. 3726, which is fully acquired by KMDA.

To resolve this dispute, this Court directed the Director of the Directorate of Land Records & Surveys, Gopal Nagar, Kolkata, to appoint a competent surveyor and submit a report. In compliance with the order dated July 9, 2024, a survey was conducted with due notice to the parties, and a report was filed.

The relevant portions of the report are as follows:

“4. After detailed survey by the surveyors of Directorate of Land Records & Surveys (DLR&S), it was found that the suit vacant parcel of land falls partly within RS/LR plot no.3726 and also in RS/LR plot no.3727.

5. It appeared from the survey that the suit parcel of land has an area of 0.076 acres (7.60 decimals).

6. From the ground survey, it was found out that out of the said 0.076 acres, 0.053 acres fall within RS/LR plot 3726 (marked in red colour in the annexed map) and the remaining 0.023 acres fall within RS/LR plot 3727 (marked in green colour in the annexed map).

7. The width of the suit parcel of land was found to be 31 feet 05 inches along the metalled road in the south, out of which 21 feet appeared to fall within RS/LR plot 3726, and the remaining 10 feet 05 inches falls within RS/LR plot 3727.

8. The width of the suit parcel of land was found to be 31 feet 08 inches along the northern boundary, out of which 22 feet 04 inches appeared to fall within RS/LR plot 3726, and the remaining 09 feet 04 inches falls within RS/LR plot 3727.

9. The length of subject land is 105 ft in both the sides.”

At the time of hearing on September 5, 2024, the petitioner's advocate prayed for an additional time to file exception to the report. The case was adjourned, but today the petitioner has neither filed exceptions nor provided a formal challenge to the report. Instead, he seeks further time to do so. The advocate for the petitioner argues that to effectively challenge the survey report, the relevant mouza map and deeds of adjacent properties must be considered. Additionally, he emphasised the limitations in the survey report and suggested that plot No. 3726 is fully utilised by KMDA.

I find no justification for further adjournment. The specific issue noted in the order dated July 9, 2024, has been clearly addressed by the survey report, which unequivocally states that out of the 0.076 acres of land purchased by the petitioner, 0.053 acres fall within RS/LR plot No. 3726 and 0.023 acres fall within RS/LR plot No. 3727. Given that the report is from an independent and impartial authority, there is no basis for a separate finding.

Therefore, as part of the land purchased by the petitioner falls within the acquired land (plot No. 3726), the sanctioned plan granted by the Corporation on October 30, 2023, cannot be given effect. Consequently, the challenges made in the two writ petitions fail. However, this does not preclude the

petitioner from applying for a new sanctioned plan for the portion of land not acquired by KMDA, i.e., 0.023 acres within RS Dag No. 3727.

Accordingly, **WPA 972 of 2024** along with **CAN 1 of 2024** and **WPA 443 of 2024** are disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties on compliance of usual legal formalities.

(Kausik Chanda, J.)