

16.08.2024

Item No. 28

Ct. no.2

b.r.

WPA 1993 of 2024

Calcutta Medical Research Institute & Anr.

-Vs.

The Union of India & Ors.

Mr. Amit Kumar Pan

Ms. Tanusri Santra

... For the Petitioners.

Mr. Promod Kumar Drolia

Ms. Amrita Pandey

.... For the Resp. nos. 1 and 4.

Mr. Sakya Sen

Mr. Suvadeep Sen

.... For the Resp. nos. 2 and 5.

Mr. Amit Kumar Pan, learned counsel, appears for the petitioners.

Mr. Sakya Sen, learned counsel appears for the respondent nos. 2 and 5 through virtual mode.

Mr. Promod Kumar Drolia, learned advocate appears for respondent nos. 1 and 4.

On the prayer of Mr. Amit Kumar Pan, learned counsel, appearing for the petitioners, the exception in the form of affidavit to the report filed by the respondent nos. 2 and 5, filed today in Court, is taken on record.

On the prayer of the learned counsel for the petitioners leave is granted to file a supplementary affidavit. Such supplementary affidavit filed in Court

today, is taken on record. Copy has been served upon the respondents.

Metro Railway is the requiring body and the acquiring authority in respect of a particular piece of land which is a portion of the total land owned by the petitioner no.1 is the Central Government.

This writ petition has been filed with the following reliefs:-

“a) A writ in the nature of Mandamus commanding the respondent authorities to furnish the information as sought for vide letter dated 14.12.2021 being “Annexure-P/6” herein, to enable the petitioner No.1 to take appropriate measure to protect the Hospital building in question as well as to file further application for the purpose of determining the correct, proper and fair compensation in connection with the claim cases pending before the respondent No.3 herein, forthwith;

b) A writ in the nature of Mandamus commanding the Competent Authority, Metro Railways, Kolkata not to proceed any further with the Claim Case no. 645 of 2022 and Claim Case No. 657 of 2022 pending before the said Competent Authority being respondent no.3, still furnishing with the details of the information as sought for by the petitioner No.1 in its letter dated 14.12.2021 being “Annexure-P/6”herein;

c) A writ in the nature of Certiorari commanding the Respondents to certify and transmit the records relating to the instant

case so that conscionable justice may be administered;

d) Rule NISI in terms of prayers (a), (b) and (c) above;

e) An order directing the respondents to furnish the information as sought for vide letter dated 14.12.2021 being "Annexure P/6" herein with the petitioner to enable the petitioner to take appropriate measure to protect the Hospital building in question, pending disposal of the instant application;

f) An interim order directing the Competent Authority, Metro Railways, Kolkata being the respondent no.3 herein, not to proceed any further with the Claim Case No. 645 of 2022 and Claim Case No. 657 of 2022 respectively, pending before the said respondent no.3 till furnishing with the details of the information as sought for by the petitioner No.1 in its letter dated 14.12.2021 being "Annexure P/6" herein, till the disposal of the instant writ petition;

g) A ad-interim order in terms of prayers (c) and (f) above;

h) Costs of and incidental to this application be paid by the respondents;

i) Such further or other order or orders be made and/or directions be given as would afford complete relief to your petitioner."

The portion of the land of the petitioner no.1 which has been acquired comprising of an area of **827.539 meters** and **40.825 meters**. Upon negotiation between petitioner no.1 and the respondent no.2, it

appears that the petitioners requested **eight months** time to re-locate themselves from the acquired land to enable them to vacate the same within such time. The respondent no.2 acting on behalf of the Metro Railways agreed for a period of **four months** only. In this regard, learned counsel for the parties have referred to a minute of the meeting held on **July 20, 2024 at page-72** to the exception filed by the petitioners, affirmed on **August 8, 2024**.

Referring to a letter dated **July 26, 2024 annexure 'g' at page-66** to the said exception, Mr. Amit Kumar Pan, learned counsel appearing for the petitioners submits that they requested the respondent no.2 to furnish a copy of the **Stimulation Study Report** so that the petitioner no.1 can take protective measure in respect of the structure standing on the portions which are not acquired for the project. The project is for expansion of Metro Railways to Joka.

Mr. Pan submits unless this report is furnished to the petitioner no.1, the petitioner no.1 shall not be in a position to take the protective measure for the remaining portion of the land which is free from acquisition and upon which the operation theatre of the petitioner no.1 is situated.

Mr. Sakya Sen, learned counsel appearing through virtual mode being ably assisted by Mr. Suvodeep Sen, learned advocate for the respondent nos.

2 and 5 submits that when the land is acquired, it is the statutory obligation on the part of the land owner to handover the possession of the acquired land and failing which the acquiring body shall take possession in exercise of its statutory power.

Mr. Promod Kumar Drolia, learned counsel appearing for respondent nos. 1 and 4 has taken the point of maintainability of this writ petition. He submits that the compensation cases have already been initiated and the petitioners can urge whatever points they wish to urge in the said compensation case with regard to their alleged damages, if any, to be suffered by the petitioners in respect of the said subject acquisition process. He further submits that the distance of the unacquired building of the petitioner no.1 from the acquired portion of land is more than **29.43 meters** and **43.03 meters**.

Mr. Sakya Sen further adopts the submissions made by Mr. Drolia and he further submits that the compensation cases are to be fought out by the petitioners on its own merits by producing his own evidence for which he cannot collect evidence from the respondents.

Learned counsel appearing for the petitioners, in reply, has denied and disputed all the submission made on behalf of the respondents, as recorded above. He further submits that the petitioners seek the copy of the

Stimulation Study Report for taking protective measures as already stated above and not to rely upon the same as an evidence in the compensation cases.

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears primarily to this Court that, the acquisition has been made for a public purpose. The law is trite that once the acquisition of a land has been made by the State authority and the land stands vested with the State authority for the purpose of such acquisition, the land owner cannot claim any further right or interest thereupon, save and except compensation in accordance with law.

The law also does not provide for any protection to be rendered by the requiring or acquiring body after acquisition of a land, towards the unacquired portion of land or any structure stands thereon adjacent to the acquired land. It will be for the landlord to take appropriate steps for protection of his own property and the structure, if any, stands thereupon, which still remains with the landlord and not acquired by the State.

As contended by the learned counsel for the petitioners that, the petitioner no.1 has to take protective and remedial measures, if any, required for the structures standing on the land which is not acquired by the State but immediately adjacent to the

acquired land and for such purpose the petitioner no.1 requires some materials from the respondent no.2, in view of this Court is not sustainable in law. The owner has to take protection of his own land and any structure standing thereupon, for which the requiring or acquiring body cannot be held responsible in law to provide any material to the land owner.

From **prayer (b)** to the writ petition it appears that two Claim Cases being **Claim Case No. 645 of 2022** and **Claim Case No. 657 of 2022** have already been initiated and pending before the **respondent no.3**.

The petitioners have right to proceed with the said Claim Case and to claim the necessary compensation in the said two pending claim proceedings, in accordance with law.

Considering the facts and situation narrated above and considering the balance of convenience and inconvenience, this Court grants **six months** time to the petitioner no.1 from **today** to surrender possession of the **acquired portion** of its land, as referred to above.

It is made clear that, this **six months period** from **today** is the outer ceiling limit fixed by this Court and is the mandatory time limit. The petitioners shall be at liberty to carry out all its reallocation procedure in the meantime but **shall have to vacate the premises and handover possession** to the appropriate authority

within the aforesaid **mandatory period of time of six months from date.**

The petitioners shall also be at liberty to file its additional claims, if any, in the said two Claim Cases subject to its maintainability, positively within a period of **six months from date.**

This time limit for filing additional claim by the petitioners **shall not preclude the appropriate authorities to take possession** of the acquired portion of land for which the outer time limit has been fixed mandatorily being **six months from date**, already stated above.

The adjudicating authority of the said two Claim Cases shall immediately commence the proceeding positively within as period of **two weeks** from the date of receiving the said additional claim, if any, to be filed by the petitioner no.1 and then shall proceed with the same and come to its logical conclusion by a reasoned decision, strictly in accordance with law, as expeditiously as possible.

It is made clear that this Court has not gone into the merits of the compensation claim to be received by the petitioners and the appropriate adjudicating authority under the statute who shall decide the claim cases shall be free to adjudicate the same by applying its independent mind but strictly in accordance with law.

The adjudicating authority of the said two claim cases shall not be influenced by any observation made by this Court.

It is further made clear that, this order shall not create any right or equity in favour of the parties to the pending claim cases and the claim cases shall arrive at its logical conclusion, strictly in accordance with law.

In view of the above, it is made clear that the respondent authorities and/or each of them shall not take any step or coercive steps to remove the petitioner no.1 from possession of the acquired portion of land **till six months from date.**

The compensation cases shall proceed as directed above. Immediately **upon expiry of the six months period from today**, there shall be no fetter on the respondents and/or the appropriate authorities to take steps for recovery of possession of the acquired land in accordance with law.

Any interim order granted in this writ petition previously, stands vacated in the light of today's order.

With the above observations and directions this writ petition, **WPA 1993 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)