

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 4343 of 2016

**M. Ramgopal & Ors.
Vs.
The State of West Bengal & Ors.**

For the petitioners	:	Mr. Sudip Sanyal Mr. Sukanta Das Mrs. Tutun Das Mr. Chandrachur Lahiri Mrs. Anulekha Bera
For W.B.I.D.C.	:	Mr. Suddhadev Adak
For the State	:	Ms. Bratati Roy Chowdhury Mr. Atarul Hoque Molla
Heard on	:	20.09.2024
Judgement on	:	20.09.2024

PARTHA SARATHI SEN, J.:

1. By filing the instant writ petition, the writ petitioners have prayed for an appropriate order directing the respondents to return the acquired land in plot nos. 150 and 160 in Mouza – Sadatpur, J.L. No. 89 under Police Station –

Kharagpur with an alternative prayer to pay adequate compensation in terms of the provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, hereinafter referred to as “the said Act of 2013”.

2. It is the case of the writ petitioners that the aforesaid two plots have been acquired by the State/respondents pursuant to a notification dated December 31, 1974 and the respondent no. 2 being the requiring body was handed over the entire plots of land for establishment of a scooter factory by M/s. IMECO Ltd. It is the grievance of the petitioners that though the entire plot no. 150 and substantial portion of plot no. 160 of the aforesaid Mouza have been allotted to the said company i.e., M/s. IMECO Ltd. but the balance portion of the acquired land in plot no. 160 is still under the possession of the respondent no. 2/corporation being the requiring body.
3. It was further submitted on behalf of the writ petitioners that even after completion of process of acquisition, the

aforementioned two plots have not been used either for any public purpose or for establishment of any factory and on the contrary, the respondent no. 2/corporation are allowing private individual to occupy the remaining portion of the said acquired land. It has also been submitted that several registered deeds have been executed in respect of the remaining portion of the plot no. 160 though entire plot no. 150 and 160 have been acquired by the respondent/State for public purpose.

4. Based on such allegation, this Court by an order dated 11.06.2024 had called for a report from the Additional District Magistrate (LR), Paschim Medinipur.
5. The Additional District Magistrate (LR), Paschim Medinipur has submitted his report on 01.08.2024.
6. Drawing attention to the said report dated 26.07.2024, it is submitted by Mr. Sanyal that from Page No. 4 of the said report dated 26.07.2024, it would reveal that in respect of plot no. 160, two separate sale deeds have been executed in favour of one Aal Amin Mission on

04.11.2011 and 03.11.2011 respectively. It is further submitted that from the said report, it would reveal further that 1.36 acre of land in plot no. 160 has been recorded in favour of one Rokia Bibi and she possesses 1.49 acre of land and the remaining 0.24 acre of land in plot no. 160 is possessed by the writ petitioners.

7. It is thus submitted by Mr. Sanyal that from the said report, it would reveal that even after acquisition, a substantial portion of acquired land, more specifically, plot no. 160 has been transferred to some private institution and/or private individual and thus, it reveals that the acquired land is not used for any public purpose and in a clandestine manner, the same is being used and/or transferred either to private institution or private individual. It is thus submitted by Mr. Sanyal that since the very purpose of the acquisition has been foiled at the instance of the State/respondents as well as the respondent no. 2 (requiring body) an appropriate order may be passed for return of the acquired land in the aforementioned two plots to the writ petitioners.

Alternatively, the State may be directed to pay adequate further compensation as per the provision of the said Act of 2013.

8. Per contra, Mr. Adak, learned advocate for the respondent no. 2 submits before this Court that the instant writ petition is ex facie not maintainable. It is submitted by Mr. Adak that it is a settled principle of law that when a land has been acquired for public purpose after paying due compensation to the land looser, the acquired land got vested with the government and there is no provision of law for retuning the same to the land looser again. In course of his submission, Mr. Adak places his reliance upon an unreported judgment dated 10.05.2024 as passed by a Division Bench of this Hon'ble Court in MAT 919 of 2023 (***Sri Tapas Kumar Maity & Ors. Vs. The State of West Bengal & Ors.***).

9. After careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it is found

undisputed that the entire plot nos. 150 and 160 with an area of 2.88 acres and 2.5 acres respectively were acquired by the State/respondent and compensation was paid to the writ petitioners and/or their predecessors-in-interest in connection with Act II L.A. Case No. 54 of 1974-75. It is further admitted position that the land situated in the aforementioned two plots have been acquired for the respondent no. 2 who is the requiring body in the said land acquisition. Materials have been placed before this Court that after acquisition, the entire plot nos. 150 and 160 have been handed over to the respondent no. 2/corporation for some public purpose.

10. This Court finds sufficient justification in the submission of Mr. Sanyal since it reveals from the report dated 26.07.2024 as submitted by ADM (LR), Paschim Medinipur which that by virtue of three registered sale deeds being sale deed nos. 7045 dated 04.11.2011 and 7002 dated 03.11.2011 registered with ADSR, Khargapur and by another sale deed no. 10120 dated 13.12.2016 registered with DSR – I, Medinipur 0.90 acres of land was

transferred in the name of one Aal Amin Mission and the name of the said Aal Amin Mission was recorded in the LRROR. The said report further reflects that in plot no. 160, 1.36 acre of land was recorded in favour of the Rokia Bibi and the remaining 0.2 acres of land in respect of plot no. 160 is still recorded in the name of the writ petitioners and they are actually possessing the same.

11. This Court is really astonished as to how a portion of the acquired land would be transferred in the name of some third parties since the same has been acquired for the respondent no. 2/authority.
12. At this juncture, a question arises as to whether on account of such transfer by execution of three sale deeds, the acquisition process as started in the year 1974/75 and concluded soon thereafter after paying due compensation to the land losers can be ordered to be taken back and the same can be directed to be returned to the land losers.

13. In considered view of this Court, the aforementioned question has been well-answered by the Hon'ble Division Bench in the aforementioned unreported decision **Sri Tapas Kumar Maity & Ors. (supra)** in the manner indicated hereunder:

"14.However, as we have discussed above, there is sufficient material on record to show that possession of the land was taken over by the State. The land was handed over to the beneficiary which has been utilized for industrial purpose. In any event, the appellants/their predecessors having accepted compensation without reservation, these issues cannot be permitted to be agitated by them at this distant point of time.

15.

16. In those facts and circumstances of the case, the case of the appellants that the Government should be directed to return the concerned land to them upon their refunding the compensation amount, cannot be accepted at all. There is no merit in the claim of the appellants. Once the land has vested in the Government, the law does not permit return of the same to the land owner. Even if the public purpose for which the

land was acquired, has failed, still the land owner cannot claim back possession or ownership of the land. The acquired land may be used by the State for some other public purpose. This is the settled law of the land.”

14. In view of the settled principle of law as discussed supra, this Court thus finds that there is no law by which this Court directs the State/respondent to return the acquired land to the land losers which has been acquired by the State by paying due compensation.
15. This Court thus finds no merit in the instant writ petition.
16. Accordingly, the instant writ petition is hereby dismissed.
17. Before parting with, this Court considers that justice would be sub-served if an enquiry is directed to be made by the ADM (General), Paschim Medinipur as to how a substantial portion of plot no. 160 in Mouza- Sadatpur in J.L. No. 89 has been transferred in the name of one Aal Amin Mission and as to how another substantial portion

is occupied by one Rokia Bibi as well as by the writ petitioners.

18. This Court thus directs the Additional District Magistrate (General), Paschim Medinipur to cause a threadbare enquiry in this regard and in the event the said Additional District Magistrate (General), Paschim Medinipur finds any foul play in the said transfer, he shall take appropriate steps in accordance with law including a criminal action against the person(s) responsible.
19. The enquiry by the ADM (General), Paschim Medinipur is to be concluded positively within two months from the date of communication of this order and in the event, any foul play is noticed by him, he shall take appropriate legal action forthwith thereafter.
20. The Additional District Magistrate (General), Paschim Medinipur is further directed to take appropriate steps for eviction of all illegal occupiers from the acquired plot no. 160 in accordance with law.

21. Learned advocate for the State is hereby requested to communicate this order to the District Magistrate, Paschim Medinipur at the earliest.
22. Department is further directed to forward a copy of this judgment both to the District Magistrate, Paschim Medinipur as well as to the Additional District Magistrate (General), Paschim Medinipur for their immediate compliance.
23. With the aforementioned observations, the instant writ petition being **WPA 4343 of 2016** is disposed of.
24. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

Sourav
A.R. (Court)

(Partha Sarathi Sen, J.)