

14 31.7.2024
Sc Ct. no.2

WPA 8053 OF 2024

Sandip Kumar Ray

Vs.

The State of West Bengal & Ors.

Mr. Sounak Sengupta
Mr. Arnab Dutt.

.....For the Petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar.

.....For the Respondent
Nos.1 and 5

Mr. Satyajit Talukdar
Ms. Rutika Verma.

.....For KMDA

Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya.

....For the KMC

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Sounak Sengupta, learned counsel appears for the petitioner.

The principal grievance of the petitioner is that, adjacent to the dwelling house of the petitioner there is about a 50 sq. m. vacant piece of land. For the purpose of free egress and ingress to the dwelling house, the petitioner has made an offer to purchase the said piece of land. The dwelling house has been built up by the petitioner on the land allotted to the petitioner by the KMDA. The petitioner submitted his representations before the KMDA authority, first on **July 23, 1997, Annexure-P7 at page 36** to the writ petition and the last

on **January 8, 2024, Annexure-P12 at page 46** to the writ petition. None of these representations have been considered since 1997 by the KMDA authority.

Learned counsel for the petitioner submits that, the petitioner at present is aged about **70 years** and has been suffering from Cancer with a survival of few days.

Mr. Satyajit Talukdar, learned counsel appearing for the KMDA authority submits that, the piece of land for which the petitioner submitted his proposal to purchase, has been wrongfully used by the petitioner as his car parking space. He has no right at all on the said piece of land. The said piece of land belongs to KMDA.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the State respondent nos. 1 and 5.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record the respondent no.7 is directed upon issuing a prior notice of hearing to the petitioner to decide the representation of the petitioner dated **January 8, 2024, Annexure-P12 at page 46** to the writ petition by passing a reasoned order in accordance with law.

The petitioner shall be entitled to participate in the hearing through his duly authorized representative,

The entire exercise as directed above, shall be carried out and completed by the respondent no.7 positively within a period of **six weeks** from the date of

communication of this order and the reasoned order shall be communicated to the petitioner positively within a further period of **two weeks** from date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the rival contentions of the parties. The petitioner shall be at liberty to urge whatever points he wishes to urge in support of his claim by relying upon whatever records and documents he wishes to reply upon before the respondent no.7 but the same shall not travel beyond the scope of the said representation dated **January 8, 2024**, as referred to above.

In the event the reasoned order goes in favour of the petitioner, the KMDA and its appropriate authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioner is otherwise found ineligible to receive his claim strictly in accordance with law.

In the event the KMDA holds any sale or transfer of the said piece of land at any point of time, sufficient prior notice shall be given to the petitioner and/or his legal heirs so that the petitioner and/or his legal heirs can participate in such sale proceeding in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 8053 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.)