

Court No. 2
12.8.2024
(Item No. 15)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 12690 of 2024

Radhaballabh Khamaru
VS
The State of West Bengal & Ors.

Mr. Dyutiman Banerjee
Mr. Vishal Mallick
.... For the petitioner
Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

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

Mr. Dyutiman Banerjee, learned counsel appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for respondent Nos. 1 to 6.

The private respondent No. 7 is yet to be served with the notice of this writ petition.

The petitioner contents that a piece of land of the petitioner has already been utilized by the State authority for laying down water pipeline for public purpose. No acquisition proceeding was initiated. No compensation has been paid.

Learned counsel appearing for the petitioner submits that, the private respondent No. 7 has a rival claim of title on the same piece of land.

Through this writ petition the petitioner has challenged the impugned reasoned order passed by

the respondent No. 3 which was communicated to the petitioner by a forwarding letter dated **April 22, 2024**, **annexure P-4** at **pages 26 to 28** to the writ petition.

Learned Additional Government Pleader submits that, the plot of land has already been utilized by laying down the water pipeline for public purpose.

After considering the rival contentions of the parties and upon perusal of the materials on records, it appears to this Court that, the State has not been able to produce any record to show that, the subject plot of land has been acquired in due process of law.

The law is trite that, in the event, if a private land is not acquired but has been utilized by the State for any public purpose, the State has to adopt its existing policy of direct purchase. No land looser can be left without any compensation on account of the land he/she has lost after the same being utilized by the State without acquisition.

Considering the above, this Court is of the view that, a prima facie case has been made out by the writ petitioner for receiving compensation on account of the subject land, be it by the petitioner, be it by the private respondent, the actual looser of the land.

Accordingly, prima facie, the record shows the subject plot of land has not been acquired in accordance with law.

The respondent No. 3 shall immediately take steps and complete the demarcation of the utilized land in accordance with law and then shall assess the fair price of the said utilized portion of land strictly in accordance with law and shall deposit the said fair price of the utilized portion of land with the respondent No. 2.

The entire exercise as directed above shall be carried out and completed by the respondent No. 3 positively within a period of **three months** from the date of communication of this order. After the deposit is made, the respondent No. 3 shall intimate the same in writing to the petitioner and the respondent No. 7 positively within **one week** from the date of deposit.

Since there is a rival claim of right, title and interest between the petitioner and the respondent No. 7 on the selfsame plot of utilized land, the respondent No. 2 upon receiving amount from the respondent No. 3 as mentioned above, shall keep it in an interest bearing fixed deposit account with the State Bank of India at the nearest branch of the office of the respondent No. 2 positively within a period of one week from the date of the deposit to be made with the respondent No. 2. The respondent No. 2 then shall furnish photocopy of the fixed deposit receipt to the petitioner and the respondent No. 7 positively within a period of **one week** from the date of the fixed

deposit to be made with the State Bank of India, as directed above.

The respondent No. 2 shall hold the money as trustee and shall only disburse the same upon receiving the formal adjudication from a competent Court of law to be submitted by the petitioner and the respondent No. 7 before it in accordance with such adjudication.

The petitioner shall also serve a copy of today's order upon the private respondent No. 7. Since the petitioner is the primary claimant of such compensation before this Court and has applied before this Court, it will be the responsibility of the petitioner to initiate appropriate proceeding before the competent Court of law to establish his right, title and interest in respect of the subject plot of utilized land as against the respondent No. 7 and any other interested parties on the land.

It is made clear that, after the said adjudication of the right, title and interest by the competent Court of law, the beneficiaries of the compensation, if are aggrieved with the determination of the compensation for the said plot of land utilized by the State, beneficiaries shall be at liberty to challenge the inadequacy of compensation strictly in accordance with law.

It is further made clear that, this order shall not create any right or equity in favour of the

petitioner or the private respondent or any other interested parties on the subject plot of land, if they do not succeed to their respective claims strictly in accordance with law before the competent Court of law as mentioned above.

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

With the above observations and directions this writ petition **W.P.A. 12690 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.)