

10 26.7.2024
Sc Ct. no.2

WPA 17035 OF 2024

Sk. Ahia Mondal

Vs.

Union of India & Ors.

Mr. Uday Narayan Betal
Mr. Barun Chatterjee.

....For the Petitioner

Ms. Sanjukta Gupta

....For the Respondent
Nos. 1 to 5

Upon urgency being pleaded, the writ petition has been fixed today at the top of the list.

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

Mr. Uday Narayan Betal, learned counsel appears for the petitioner.

Ms. Sanjukta Gupta, learned counsel appears for the respondent nos. 1 to 5 through virtual mode.

None appears for the respondent no.6.

Learned counsel appearing for the petitioner referring to **page 6** to the affidavit-of-service submits due notice has already been served upon the respondent no.6.

The petitioner submits that, in **2009** a land acquisition proceeding was initiated by the State authority by issuing the necessary statutory notice, **Annexure-P2 at page 36** to the writ petition. From the said notice it appears that, a plot of land measuring

about **0.29 acre** out of **plot no.1255** was proposed to be acquired. Ultimately no further steps were taken pursuant to the said acquisition notice and later the said notice was abandoned.

The State authority thereafter in **2018** published another statutory notice in the newspaper dated **July 23, 2018, Annexure-P3 at page 41** to the writ petition for acquisition of land for the selfsame purpose. The connected notice dated **September 10, 2018, Annexure-P4 at page 42** to the writ petition shows the land for about **0.260 acre** out of **plot no.1255** was proposed to be acquired.

At all material time the requiring body was the Railways and the acquiring authority was the State.

Referring to a representation dated **May 14, 2024, Annexure-P9 at page 55** to the writ petition, learned counsel for the petitioner submits that, ultimately **0.29 acre** which is equivalent to **29 Satak** land was taken in possession by the acquiring authority in place and stead of **0.260 acre**. Thus, for **about 0.03 acre** of land in excess was taken in possession by the acquiring authority. Referring to a document dated **December 3, 2018, Annexure-P5 at page 43** to the writ petition, learned counsel submits that, the proportionate compensation equivalent to **0.26 acre** of land has already been received by the petitioner. The petitioner now contends that, the said excess land was taken in

possession by the acquiring authority without any authority of law.

Learned counsel appearing for the respondent nos. 1 to 5, the requiring body, Railways submits that, the requiring body had proceeded on the basis of the land acquired by the State authority and the State authority was the competent authority under the law who has acquired the land.

Since State is not represented, despite notice, no submission was made on behalf of the State.

After considering the submissions of the appearing parties and upon perusal of the materials on record, to subserve justice, the **respondent no.6** is directed upon prior notice to the petitioner and the appropriate authority of the requiring body to cause a physical inspection and measurement of the subject land taken possession by the State and then after giving them an opportunity of hearing shall dispose of the representation of the petitioner dated **May 14, 2024, Annexure-P9 at page 55** to the writ petition by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the **respondent no.6** positively within a period of **ten weeks** from the date of communication of this order. The respondent no.6 then shall communicate the reasoned order to the petitioner and the appropriate authority of the requiring body

positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the contention of the petitioner. The petitioner and the requiring body shall be at liberty to urge whatever points they wish to urge in support of their claim by relying upon whatever records and documents they wish to reply upon before the respondent no.6 but the same shall not travel beyond the scope of the said representation dated **May 14, 2024**, as referred to above.

In the event, the petitioner succeeds to his claim, the respondent no.6 and/or any other appropriate authority or authorities of the State and the appropriate authority of the requiring body shall take all necessary and consequential steps to negotiate with the petitioner and to redress his grievance strictly in accordance with law but positively within a period of further **ten weeks** from the date of the said reasoned order to be passed and be communicated to them.

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

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

With the above observations and directions this writ petition, **WPA 17035 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.)