

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

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 22572 of 2014

**Calcutta Electric Manufacturing Co. Ltd. & Anr.
Vs.
State of West Bengal & Ors.**

For the petitioners : Mr. Arabinda Chatterjee, Sr. Adv.
Mr. A. K. Gayen
Mr. A. A. Gayen

For the State : Mr. Chandi Charan Dey
Mr. K. N. Nabi

For the respondent no. 5 : Mr. Satyajit Talukdar
Mr. Arindon Chatterjee

Heard on : 12.09.2024

Judgment on : 12.09.2024

PARTHA SARATHI SEN, J.:

1. In this writ petition the writ petitioners have prayed for issuance of writ of mandamus directing the respondent authorities to demarcate the plots of land as acquired by them pursuant to

Gazette notification dated 15.04.1985 upon proper survey, issuance of appropriate writ directing the respondents to pay compensation of land acquisition on behalf of the requiring body and for other ancillary reliefs.

2. In course of his submission Mr. Chatterjee, learned Senior Advocate on behalf of the writ petitioners at the very outset draws attention of this Court to the exception to the reports dated 25.07.2019, 13.12.2023, 18.01.2024 and 30.01.2024 as filed by Land Acquisition Collector (General and HIT), Howrah and as affirmed on 21.08.2024 which is filed today and is taken on record.
3. Drawing attention to page Nos. 56 and 57 of the -said exception it is submitted by Mr. Chatterjee that the subject matter of the instant writ petition is L.A. Case Nos. 18/1A and 18/B (Act-II) of the K.M.D.A. of 1975-76 of Kona Expressway Project now utilized for construction of Santragachi Bus Stand. It is submitted by Mr. Chatterjee, learned Senior Advocate for the writ petitioners that on conjoint perusal of the page Nos. 56 and 57 to the aforementioned exception being a copy of the letter dated 01.07.2015 as written by Collector, Howrah it would reveal that the Collector of Howrah send two estimates of Rs. 6,89,97,607/- and another of Rs. 2,74,353/- to the Joint Secretary, L&LR Department for approval towards the cost of acquisition of land involving the aforementioned two L.A. case numbers.

4. Drawing attention to page No. 41 to the exception as filed today it is submitted by Mr. Chatterjee that all on a sudden a tentative award was passed on 31.12.2023 to the tune of Rs. 6,41,17,119/- being the total estimated amount of the cost of acquisition in respect of the acquired lands involved in the aforementioned L.A. cases.
5. Mr. Chatterjee further submits that from page Nos. 8 to 12 of the aforesaid exception being a letter of the Special Land Acquisition Officer, Howrah Improvement Trust dated 25.07.2019 it would reveal that in respect of the aforementioned two cases two separate estimates of Rs. 6,89,97,607/- and Rs. 2,74,353/- were forwarded. It is further submitted by Mr. Chatterjee that while passing the tentative award no reason has been assigned as to what prompted the respondent authorities to reduce the amount of award which is payable to the petitioners.
6. In course of his submission Mr. Chatterjee, learned Senior Advocate appearing on behalf of the petitioners submits further before this Court that from page Nos. 18 and 19 of the exception it would reveal that the aforesaid L.A. Case Nos. 18/1A and 18/1B covers the entire plots of land measuring about 50.45 acres as has been mentioned in paragraph Nos. 5 and 6 of the writ petition. It is thus submitted that the quantum of award as assessed by the respondent authorities which is available at page No. 41 of the aforementioned exception is not only wrong on the basis of the

calculated amount but also the same is defective with regard to the quantum of area acquired by the respondent authorities.

7. It is thus submitted by Mr. Chatterjee, learned Senior Advocate that in view of the aforementioned facts as placed before this Court the writ petitioners are entitled to the reliefs as prayed for.
8. *Per contra*, Mr. Talukdar, learned Advocate for the K.M.D.A./respondent No. 5 at the very outset draws attention of this Court to the orders passed by this Court on 25.08.2014, 12.11.2014, 19.11.2014, 04.03.2015 and 30.08.2023. It is submitted by Mr. Talukdar that on conjoint perusal of the aforementioned five orders as discussed supra it would reveal that during the pendency of the writ petition an order was passed for submission of compliance report by the concerned BL&LRO. The said compliance report was filed on 19.11.2014. On the said day this Court granted liberty to the writ petitioner to verify the said report regarding its correctness and by an order dated 30.08.2023 it has been recorded by this Court that no objection was raised by the petitioners with regard to the genuineness of the said report and by the self-same order this Court made an endeavor to ascertain as to whether the petitioners were paid compensation in respect of 2.36 acres of land acquired by the State authorities.
9. In his second fold of submission Mr. Talukdar, learned Advocate appearing on behalf of the K.M.D.A./respondent No. 5 being the

requiring body draws attention of this Court to the report dated 29.01.2024 which has been annexed at page No. 14 of the exception as filed today. It is submitted by Mr. Talukdar that from page No. 16 of the said exception being the copy of the compliance report of BL&LRO it would reveal that subject plot numbers of the writ petitioner are R.S. plot Nos. 3832, 3833 and 3851. It is further submitted that from page No. 16 of the said exception it would reveal that out of the said three plots 0.65 acres + 0.43 acres + 0.84 acres totaling to 1.92 acres of land was acquired for industrial purpose whereas 0.20 acres and 0.24 acres totaling to 0.44 acres was acquired for other purpose and the sum total of the acquired land of the petitioners comes to 2.36 acres.

10. Drawing attention to page No. 31 of the writ petition it is further submitted by Mr. Talukdar that the genuineness of the compliance report dated 17.11.2014 as filed on 19.11.2014 cannot be doubted in the event the same is compared with the Gazette notification dated 15.04.1985 which is available from page No. 31 of the writ petition which discloses the self-same aforementioned three plot numbers.
11. It is thirdly submitted by Mr. Talukdar, learned Advocate for the K.M.D.A./respondent No. 5 that the Special Land Acquisition Officer, Howrah Improvement Trust had assigned sufficient reason to assess the estimate to the tune of Rs. 6,41,17,119/- instead of

two separate estimates of Rs. Rs. 6,89,97,607/- and Rs. 2,74,353/- which are available at page Nos. 51 and 53 of the exception.

12. It is lastly submitted that from the estimate as available from page No. 41 of the exception it would also reveal that the calculation of the new estimate to the tune of Rs. 6,41,17,119/- has been done on the basis of calculation of acquired land of 2.71 acres instead of 2.36 acres. It is thus submitted by Mr. Talukdar that since the aforementioned sum of Rs. 6,41,17,119/- has already been disbursed in favour of the writ petitioners during the pendency of the writ petition the writ petitioners are not entitled to any further relief.
13. Mr. Chandi Charan Dey, learned Advocate appearing on behalf of the respondents/State adopted the submission of Mr. Talukdar. He also submits that no further relief may be granted to the writ petitioners as prayed for.
14. On perusal of the entire materials as placed before this Court and after giving due consideration over the submissions of the learned Advocates for the contending parties it appears to this Court that within the four corners of the writ petition as filed before this Court the writ petitioners have not mentioned about the plot numbers which according to him were acquired by the respondent authorities for respondent No. 5 being the requiring body. Admittedly, it is the case of the writ petitioners that pursuant to the

Gazette notification dated 15.04.1985, 50.45 acres of land of the writ petitioners were acquired by the respondent authorities and that the respondent authorities have not paid the compensation for such acquisition and they had also not demarcated plots of lands so acquired by them.

15. As rightly pointed out by Mr. Talukdar that on conjoint perusal of the photocopy of the relevant notification dated 15.04.1985 as available at page No. 31 of the writ petition and the report dated 17.11.2014 as submitted by BL&LRO on 19.11.2024 pursuant to the direction of this Court, it would reveal that amongst other plots of the writ petitioners in R.S. Plot Nos. 3832, 3833 and 3851 a sum total of 2.36 acres of land was acquired by the respondent authorities pursuant to the Gazette notification dated 15.04.1985 which are admittedly the subject matter of L.A. Case Nos. 18/1A and 18/1B (Act-II) of the K.M.D.A. of 1975-76 as reveals from page No. 4 of the aforementioned exception.
16. In course of hearing Mr. Chatterjee, learned Senior Advocate was very vocal with the quantum of award dated 31.12.2023 to the tune of Rs. 6,41,17,119/- since from the letter dated 01.07.2015 as available at page No. 56 of the aforementioned exception it would reveal that two estimates have been made to the tune of Rs. 6,89,97,607/- and Rs. 2,74,353/- being the value of the acquired lands in question.

17. Mr. Chatterjee, learned Senior Advocate further submits that in the award dated 31.12.2023 no reason has been assigned as to what prompted the respondent authorities to reduce the quantum of the award.
18. As rightly pointed out by Mr. Talukdar, learned Advocate for the respondent No. 5 that from the status report of the Special Land Acquisition Officer of the State as has been annexed with the exception as referred as above at page Nos. 51 to 53 sufficient reasons has been assigned for cancellation of the tentative estimate of Rs. 6,89,97,607/- plus Rs. 2,74,353/- and for preparing fresh estimate of Rs. 6,41,17,119/-.
19. Being a writ court, this Court has got no tools and machineries to assess as to whether the compensation assessed by the Special Land Acquisition Officer and as has been awarded vide order dated 31.12.2023 is correct or not and the same is not the subject matter of the instant writ petition. However, sufficient materials have been placed that the respondent authorities have been able to substantiate the quantum of land acquired from the writ petitioners and they have also placed materials before this Court that the assessed amount of compensation has been duly disbursed to the writ petitioners.
20. In view of the discussion made hereinabove this Court thus finds that the writ petitioners have already obtained the relief as prayed

for in this writ petition and, therefore, they are not entitled to any further relief as prayed for.

21. With the aforementioned observation, the instant writ petition being **WPA 22572 of 2014** is disposed of.
22. Since Mr. Chatterjee, learned Senior Advocate for the writ petitioners submits before this Court that quantum of compensation as awarded to the writ petitioners is substantially low, liberty is given to the writ petitioners to challenge the quantum of award in an appropriate proceeding, if so advised and in the event the writ petitioners initiates such legal proceeding, he will be entitled to get the relief under Section 12(1) of the Limitation Act because of the pendency of the instant proceeding.
23. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(PARTHA SARATHI SEN, J.)