

March 6, 2024
ARDR (699)

WPA 25102 of 2023

Lokkon Soren & ors.
Vs.
The State of West Bengal & ors.

Adv. S.P. Lahiri,
Adv. Md. Habibur Rahaman,
Adv. Rajesh Naskar,
Adv. Srijit Halder,

...for the petitioners.

Adv. Soumitra Bandyopadhyay,
Adv. Suchana Banerjee,

...for the State.

Supplementary Affidavit submitted on behalf of the
petitioners is taken on record.

Heard learned counsels for the parties.

The facts which are not in dispute in the present
writ petition are enumerated hereunder:-

The land in question was vested to the State under
the West Bengal Estate Acquisition Act, 1953 and *patta*
in respect of 2.16 acres was granted in favour of the
predecessor-in-interest of the petitioners. The record of
rights was not corrected as a result of which the land
continued to be reflected in Khatian – I, that is, the
Collector's Khatian. In 2014, the land comprising 2.93
acres in Mouza Gowalin including the petitioners' land
was made over to the Border Security Force and
possession handed over to them in 2018. The *patta*
issued in favour of the predecessor of the petitioners was
not annulled.

Learned counsel for the petitioners submits that the petitioners filed a Title Suit, being T.S. 37 of 2019, before the learned Civil Court at Islampur on an allegation that the Border Security Force personnel were encroaching upon the plot of the petitioners. Subsequently the petitioners agreed to relinquish the land for the purpose of public interest subject to proper and adequate compensation as per the present market value of the land.

By the order impugned dated 6th June, 2023, the District Magistrate, Uttar Dinajpur has observed that as per policy of the Government, land which is required for public purpose is being purchased directly from the land owners in terms of the memo dated 24th November, 2014 of the Land and Land Reforms Department, Government of West Bengal. But since the suit land is *patta* land, transfer of the same is barred under Section 49(1A) of the West Bengal Land Reforms Act, 1955 and cannot be purchased via direct purchase mode. The authority has agreed to compensate the petitioners by paying cash compensation in lieu of alienation of the suit land, in the alternative, settle an alternative vested land in their favour.

The petitioners refuse to accept alternative land and seek compensation in lieu of their land at the present market rate.

Learned counsel for the respondents submits that since the authority is agreeable to grant compensation to the petitioners or an alternative land, it is for the petitioners to choose between the two.

It is not in dispute that the petitioners are owners/*patta* holders of the plot in question and the *patta* issued in favour of their predecessor has not been annulled. The land was utilised by the respondents without initiating any acquisition proceeding in accordance with law. Therefore the observation of the authority in the order impugned that the land is *patta* land cannot be accepted. *Patta* in respect of the land being granted in favour of the predecessor of the petitioners, the petitioners can still be termed as legal heirs of the original *patta* holder and are entitled to compensation at the present market rate.

Section 49(1A) of the Act of 1955 lays down certain restrictions on transfer of land settled by the State Government in favour of a person by the said person. In the present case, since the petitioners do not intend to transfer the land granted in favour of their predecessor, the provision of Section 49(1A) has no manner of application herein. Mere omission to record the name of the predecessor in the record of rights does not nullify the *patta* granted in his favour, moreso, since such grant of *patta* is admitted by the authority.

In terms of the policy of the Government declared vide memo no.3145-LP/1A-03/14 dated 24th November, 2014, the concerned respondent, being the 2nd respondent herein, is directed to initiate proceeding for direct purchase of the plot in question from the petitioners at the present market rate of the plot and take the proceeding to its logical conclusion within four months from the date of communication of this order upon affording reasonable opportunity of hearing to the petitioners, in accordance with law.

With the aforesaid directions the writ petition is disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)