

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

THE HON'BLE JUSTICE HARISH TANDON

&

THE HON'BLE JUSTICE APURBA SINHA RAY

**MAT 183 of 2023
IA NO: CAN 2 of 2024
The District Magistrate, Darjeeling & Anr.
Vs.
Manoj Kedia & Ors.
with
MAT 30 of 2023
IA No: CAN 1 of 2023
IA No: CAN 2 of 2023
Manoj Kedia
Vs.
The State of West Bengal & Ors.
with
MAT 83 of 2023
CAN 1 of 2023
The Siliguri Jalpaiguri Development Authority & Anr.
Vs.
Manoj Kedia & Ors.**

Appearance:

For the Appellants
(in MAT 183 of 2023 &
MAT 83 of 2023)
For the Respondents
(in MAT 30 of 2023)

: **Mr. Subir Kumar Saha, Ld. AGP
Mr. Pretom Das, Adv.
Mr. Nabankur Paul, Adv.**

For the SJDA

: **Mr. Anirban Ray, Ld. GP.
Mr. Raja Saha, Adv.
Mr. Sanjay Mukherjee, Adv.
Ms. Bedasruti Bose, Adv.
Mr. Subham Chanda, Adv.**

For the Appellant : **Mr. Saptangsu Basu, Sr. Adv.**
 (in MAT 30 of 2023) & **Mr. Ayan Banerjee, Adv.**
 For the Respondents **Mr. Deborshi Dhar, Adv.**
 (in MAT 183 of 2023 & **Ms. Debosree Dhamali, Adv.**
 MAT 83 of 2023) **Mr. Bapi Sarkar, Adv.**

Judgment On : **13.09.2024**

HARISH TANDON, J.:

The aforesaid appeals are filed by the respective appellants assailing the self-same judgment and order dated 10th February, 2023 passed in connection with WPA 1040 of 2021 by which the writ petition was disposed of directing the authorities to take possession of Plot no. 240 of Mouza Gourcharan within PS – Matigara from the Siliguri Jalpaiguri Development Authority within 3 weeks from the date of the communication of the order and also to pay rent compensation reckoning from 10th February, 1993 till the delivery of possession. The District Magistrate, Darjeeling and Siliguri Jalpaiguri Development Authority (SJDA) have filed the respective mandamus appeals challenging the said order one ground or other and therefore, we decided to hear out the aforesaid appeals together.

The facts disclosed from the record are adumbrated as under in order to determine the points addressed by the respective appellants. One Birendra Chandra Das was the owner of Plot no. 229 and 240 measuring 3.7 acres and 2.56 acres respectively in Mouza Gourcharan within PS – Matigara on the strength of deeds of conveyance dated 06.02.1957 and 19.03.1968 respectively.

By virtue of a notice under Section 3 (1) of the West Bengal Land (Requisition and Acquisition) Act, 1948, large tract of land was requisitioned by the SJDA for the purpose of setting up a truck terminal and for the other utilities and facilities for the public. The said original owner assailed the said notice before this Court in CO 4463 (W of 1991) on several grounds including that the notice requisitioning the aforesaid plots is bad having no nexus with the public purposes. Amidst the pendency of the said writ petition, a consensus was arrived between the said owner and the SJDA to acquire the Plot no. 229 and de-requisition the Plot no. 240. Having assured by the SJDA, the Requisitioning Authority, the said writ petition was not pursued and was dismissed for default. Apropos the said consensus/agreement, the Chief Executive Officer of the SJDA wrote a letter on 27.07.1994 to the District Magistrate, Darjeeling that the Plot no. 240 having a land admeasuring 2.65 acres shall be de-requisitioned and the possession to be handed over to the owner and simultaneously, the step should be taken for acquisition of Plot no. 229 having a land admeasuring 3.7 acres. In pursuance of the said decision of the requisitioning authority, an enquiry was conducted under Section 7 of Act II of 1948 by the District Magistrate and Collector, Darjeeling on 19th October, 1995 in presence of the original owner. A decision was taken which led the issuance of a letter dated 30th November, 1995 by the Collector, Darjeeling to the owner that Plot no. 240 shall be released in favour of the owner of the said land and the possession would be handed over on 11th December, 1995. In the meantime, the original owner died, making a Will bequeathing the property in

favour of the writ petitioner/appellant and the said Will was duly probated by the competent Court. In the interregnum, 80 per cent of the interim compensation was also made over to the owner but despite the decision having taken to de-requisition the Plot no. 240, it was not given effect to. The writ petitioner was persistently making the claim on the basis of the said agreement/consensus arrived between the authorities and the petitioner but there was no response from their end which constrained the writ petitioner to file the writ petition before this Court which is disposed of by the impugned order.

It is evident from the record that the initial relief claimed in the writ petition pertained to handing over of the possession in respect of a land comprised in Plot no. 240 together with the payment of the rent compensation for the period between the date of requisition and the date of delivery of the possession thereof. After the service is affected upon the respondents including the SJDA, the State Respondents filed the affidavit-in-opposition disclosing the fact that the aforesaid two plots were acquired for greater public interest to establish a truck terminal. It was further disclosed that though the Chief Executive Officer, SJDA made a proposal for the de-requisition of the land comprised in Plot no. 240 in its letter dated 27th July, 1994, but it was subsequently felt that the said land cannot be released for the larger public interest. It is further stated therein that the amount of compensation being the 80 per cent of the total amount has already been paid to the petitioner and, therefore, the contention of the writ petitioner is not tenable.

Taking into account the facts disclosed by the State Respondents, an application under Right to Information Act was filed before the Collector, Darjeeling on 29.06.2018 and 31.08.2018 respectively as to whether any steps have been taken for the acquisition of the aforesaid plots and whether any award was passed. The petitioner received a response from the Collector, Darjeeling indicating that a notification under Section 4 (1a) of Act II of 1948 was published on 10.02.1993 and the final award was declared on 26.07.1996. After receiving the said information, an application for amendment of the writ petition was filed by the writ petitioner seeking a mandamus in the form of declaration that the acquisition proceedings initiated under Section 4 (1a) of Act II of 1948 in respect of the aforesaid plots has lapsed in view of the mandate given under Section 7A of the said Act and, therefore, the possession in respect of the aforesaid plots be immediately handed over to the writ petitioner. The said application for amendment was allowed and the amended copy was served upon the respondents.

Interestingly, after the writ petition is amended, the SJDA filed an affidavit-in-opposition reiterating the fact that though the aforesaid plots were initially requisitioned for setting up a truck terminal at Matigara but subsequently, a notice under Section 4(1a) of Act II of 1948 was published on 10th February, 1993 and the said requisitioning authority deposited a hefty sum over 2 crores with the Collector, Darjeeling for such acquisition. The SJDA also admitted the factum of publishing the award on 26.07.1996 and took a stand that the petitioner received the compensation.

On the backdrop of the aforesaid fact, the Single Bench held that since the petitioner received 80 per cent compensation in respect of Plot no. 229, it cannot take a rebound and assert that the order of acquisition is bad in view of the provisions contained under Section 7A of the Act II of 1948. The Single Bench further held that since the award was not passed in respect of the Plot no. 240 within the time limit prescribed under Section 7A of the said Act, the SJDA cannot retain the said property and directed the handing over of the possession of the said plot together with the rent compensation for use and utilisation of the same.

Mr. Saptangsu Basu, the learned Advocate appearing for the writ petitioner/appellant submits that the decision of the Single Bench in relation to Plot no. 229 to have been acquired on the basis of the notification/notice issued under Section 4 (1a) of the Act II of 1948 is erroneous as the said notice lapsed in view of the provisions contained under Section 7A of the said Act. He further submits that Section 7A of the said Act makes it imperative to make an award within 3 years from the date of the publication of the notice under Section 4 (1a) of the said Act and in the event, the same is not done, the notice lapses. It is submitted that the notice under Section 4 (1a) of the Act was published on 10.02.1993 and the award was made on 26.07.1996 beyond three years as stipulated in the said Section 7A of the said Act and, therefore, the notice of acquisition lapsed automatically and, therefore, the State or the requiring body cannot retain the land thereunder. He further submits that the compensation to the extent of 80 per cent so received was in terms of Section

8B of the said Act which cannot be construed as a payment in terms of the award and, therefore, it does not take away the right of the writ petitioner in claiming the possession of the aforesaid plots. He strenuously submits that a consensus/agreement was arrived between the SJDA and the petitioner for de-requisitioning the Plot no. 240 as the said requiring body communicated that the Plot no. 229 is required for setting up the terminal at Matigara which the writ petitioner agreed but despite the same, no step was taken to make the award within the statutory period provided under Section 7A and, therefore, in view of the consequences having provided therein, the said Plot no. 229 cannot be retained as an acquired land by the respondent authorities.

Mr. Anirban Ray, the learned Advocate appearing for the SJDA took a preliminary objection as to the entertainability of the writ petition at a fairly belated stage. According to him, the writ petitioners are precluded from challenging the acquisition proceedings and the award made in respect thereof after a considerable lapse of time. We further submits that there is a complete silence on the part of the writ petitioner in not assailing the notice for acquisition and the award published in the year 1996 and, therefore, the Writ Court should not entertain the writ petition on the ground of delay and latches. To buttress the aforesaid submission, the reliance is placed upon a judgment of the Apex Court in case of ***Municipal Corporation of Greater Bombay vs. Industrial Development Investment Co. Pvt. Ltd. & Ors. reported in (1996) 11 SCC 501***. He further submits that the petitioner received a part of compensation so awarded and, therefore, is stopped from challenging the

notice of acquisition as well as the award having published subsequently. He thus submits that since the acquisition was made for larger public interest and the position has become irreversible after setting up the truck terminal at Matigara, the writ petition ought to have been dismissed and, therefore, the order impugned in the instant mandamus appeal warrants interference. The State took the same stand that of the SJDA and adopted the submissions made by Mr. Ray in this regard.

In reply Mr. Basu submits that there was no delay and laches on the part of the writ petitioner in ventilating the grievance for the simple reason that the notice of acquisition as well as making of award was never communicated nor any attempt to make the payments in terms thereof was made and, therefore, there cannot be any lapses and/or laches on the part of the writ petitioner. He further submits that the factum of issuing the notice under Section 4 (1a) of the said Act and the award having made after the lapse of 3 years was made known to the petitioner in reply to an information under Right to Information Act and immediately thereafter, an amendment application was filed in the writ petition which was eventually allowed. He thus submits there cannot be any delay on the part of the writ petitioner in ventilating the grievance and, therefore, the contention of Mr. Ray in this regard is unsustainable.

Before we proceed to decide the points urged before us, we feel it pertained to recapitulate the object and purpose behind the incorporation of the West Bengal Land (Requisition and Acquisition) Act, 1948. The said Act

was enacted primarily for the purpose of requisitioning the land to be used and utilised for public purposes without any provision relating to the acquisition of the said property. Subsequently, by virtue of an amended Act, the provision relating to acquisition of the property was incorporated provided the Government is of the view that the requisitioned property is permanently required for public purposes and also to maintain the essential supplies and services to the life of the community or for increasing the employment opportunities in establishing the commercial and industrial estates in different areas. Despite the insertion of the provision relating to acquisition of the requisitioned land, the said Act was of temporary nature having a limited life. By virtue of a notification issued from time to time, the life span of the said Act was extended until it receives the natural death. During the lifetime of the said Act, an amendment was brought by inserting Section 7A therein with clear stipulation that it would be deemed to have been incorporated in the said Act w.e.f. 1st April, 1994. Ultimately, the operation of the said Act was not extended after 31st March, 1997 and, therefore, expires by efflux of time. The reason for not extending the said Act beyond the aforementioned date can be gathered from the legislative act of the State Government in bringing a suitable amendment in Land Acquisition Act, 1894 with the insertion of sub-Section (3A) and (3B) of Section 9 thereof together with a proviso inserted to Section 11A and 23 thereof. Simultaneously, Section 54A was introduced in the Act I of 1894 so as to make the provisions of the older Act to apply to the acquisition of the land under sub-Section (3A) and (3B) of Section 9 thereof. It would be

axiomatic to reproduce Section 4, more particularly, sub-Section (1a) thereof empowering the State Government to publish a notice in the Official Gazette signifying the intention to acquire the requisitioned land for public purpose in the following:

“4. Acquisition of land.-(1) Where any land has been requisitioned under section 3, the State Government may use or deal with such land for any of the purposes referred to in sub-section (1) of section 3 as may appear to it to be expedient.

(1a) The State Government may acquire any land requisitioned under section 3 by publishing a notice in the Official Gazette that such land is required for a public purpose referred to in sub-section (1) of section 3.

(2) Where a notice as aforesaid is published in the Official Gazette, the requisitioned land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the (State) Government free from all encumbrances and the period of requisition of such land shall end.”

Section 7 of the said Act was untouched despite the insertion of Section 7A in the said Act mandating the payment of the compensation upon determination by the Collector in the manner and in accordance with the principles laid down in sub-Section (1), (1A) and (2) of Section 23 of the Land Acquisition Act, 1894. By introduction of Section 7A of the said Act, the Collector has to make an award under sub-Section (2) of Section 7 of the said Act within a period of 3 years from the date of the publication of the notice in the Official Gazette under sub-Section (1a) of Section 4 thereof with the

consequences in the event of a failure that if the award is not made within the time as indicated therein, the said notice shall lapse. Section 7A of the said Act is quoted as under:

“7A. Award by Collector.— The Collector shall make an award under sub-section (2) of section 7 within a period of three years from the date of publication of the notice in the Official Gazette under sub-section (1a) of Section 4 (hereinafter referred to as the said notice), and if such award is not made within the period as aforesaid, the said notice shall lapse:

Provided that in a case where the said notice has been published more than two years before the commencement of the West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1994, the award shall be made within a period of one year from the date of commencement of that Act (31.3.94).

Explanation.—In computing the period of three years or one year, as the case may be, under this section, the period during which any action or proceeding to be taken in pursuance of the said notice is stayed by an order of a Court having jurisdiction shall be excluded.”

The cumulative effect of the aforementioned provisions are indicative of the fact that although the operation of the said Act was not extended but the initiation of the acquisition proceedings upon publication of the notice under Section 4(1a) was saved, provided the award is published within the stipulated time. Even after the lapse of the said Act, corresponding amendment was made in Act I of 1894 to give an opportunity to the Government to acquire the

requisitioned land as the public purpose still exist depending upon the eventualities contemplated in the said amending provisions.

Reverting to the facts of the instant case, admittedly, the notice under Section 4 (1a) of the said Act was issued and published on 10.02.1993 and the award was declared on 26.07.1996 much beyond 3 years stipulated under Section 7A of the said Act. A distinction has to be borne in mind in interpreting the various provision of the statute providing for the lapse of an acquisition proceeding and the lapse of a notice which is a foundation stone for initiation of the said proceeding. The moment the vesting is a conditional one but not of an enduring nature, it cannot protect the lapsed notice. The reliance can be made to a judgment of the Apex Court in case of ***Delhi Development Authority vs. Sukhbir Singh and Ors. reported in (2016) 16 SCC 283*** where a distinction has been made between the expressions “notice shall lapse” and “acquisition proceeding stood lapsed”. It has been held that in the event the statute contemplates that the notice shall lapse, the vesting cannot be of an enduring character but in the event the statute provides the acquisition proceeding to lapse, it may be so. Bearing in mind the aforesaid distinction, there is no ambiguity in our mind that Section 7A of the said Act provides for lapse of a notice not of an acquisition proceeding and, therefore, the moment the foundation is removed, anything standing thereupon has to fall. We have no hesitation in our mind that the award was published after 3 years from the date of the publication of notice under Section 4 (1a) of the said Act and in view of the consequences provided therein, the said notice lapsed as a consequence

whereof, there is no question of the acquisition of the said land under the said Act. Though an incidental question may arise whether the payment of 80 per cent of the compensation under Section 8B of the said Act would be construed as a making an award meaning thereby whether it will shift the date of an award to an anterior date, Section 8B of the said Act is reproduced as under :

“[8B. On account payment of compensation in advance.-(1) Where the State Government requisitions any land under sub-section (1) of Section 3 and decides to acquire it under sub-section (1a) of section 4, it may, notwithstanding anything contained in the foregoing provisions of this Act, immediately after taking possession of such requisitioned land –

(i) make an estimate about the amount which is likely to be determined, under sub-section (1) of section 7, as compensation for acquisition of such land, and

(ii) make a summary inquiry about the person or persons interested in such land.

and after taking such security as it may think fit and proper, make to such person or persons advance (on account) payment towards compensation up to eighty per centum of the aforesaid amount:

Provided that nothing in this section shall affect the liability of any person, who receives compensation in advance in the manner indicated above, to pay the same to the person lawfully entitled thereto.

(2) A collector, when authorized by the State Government in this behalf, may exercise within his jurisdiction the powers conferred by sub-section (1).]”

The bare reading of the said provision is exposit of the legislative intention that the moment the State Government decided to acquire the requisitioned land by issuing a notice under Section 4(1a) of the said Act and the estimate about the amount which is likely to be determined by the Collector to be paid as a compensation for acquisition of the said land has to be arrived at and the 80 per cent of the said amount shall be paid to the interested person. The question, therefore, fell for consideration what is the effect of the payment made by the Government under Section 8B of the said Act whether it constitute an interim award or a final award to be determined in terms of the provision contained under Section 7 of the said Act. The spirit of Section 7 can be envisioned from the language used therein that the moment the Government acquired the land under Section 4, every person having interest in the land shall be paid compensation to be determined by the Collector in the manner and in accordance with the provisions contained in sub-Section 1, 1(A) and (2) of Section 23 of the Land Acquisition Act, 1894. Sub-Section (2) of Section 7 postulates that after determination of the said compensation, the collector shall make an award in accordance with the principle set out in Section 11 of the Land Acquisition Act, 1894 and the amount referred in sub-Section (1) thereof shall be included in the said award. The conjoint reading of the aforesaid provisions leaves no ambiguity in our mind that the advance compensation paid under Section 8B constitute an integral part of a final award to be passed under Section 7(2) of the said Act and, therefore, if such payment is received by the person having interest in the land, he cannot take a shelter that the final

award was made after the period enshrined under Section 7A of the said Act. The payment under Section 8B of the said Act cannot be segregated from an award and, therefore, such payment having received by the person having interest in the land shall be deemed to have received the said amount on the basis of an award and, therefore, the intention of the legislature can be sufficiently gathered that such payment constitute a payment under an interim award though the final determination would be made at a latter point of time. The Single Bench found that the payment received by the writ petitioner from the Collector was in relation to a Plot no. 229 and, therefore, is precluded from contending that the notice under Section 4 (1a) of the said Act lapsed by virtue of Section 7A of the said Act. We, thus, do not find any infirmity and illegality in the said decision. Admittedly, the award in respect of Plot no. 240 was made after the stipulated period provided in Section 7A of the said act and in view of the consequence provided therein, the notice under Section 4(1a) of the Act lapsed and, therefore, it is obligatory on the part of the state to return the possession to the rightful owner thereof. Though the consequences are provided for return of the said property but we find that the said Plot no. 240 has already been used and utilised for a larger public interest and because of the repeal of Act I of 1894 under Right to Fare Compensation Act of 2013, the position has been altered.

Before we conclude, we would be failing in our duty in not considering the argument advanced by Mr. Ray appearing for SJDA that the writ petition should be dismissed on the ground of delay and latches. In Municipal

Corporation of Greater Bombay (supra), the Apex Court was considering a matter where the award passed under Section 11 of the Land Acquisition Act, 1894 and a notification under Section 6 read with 126(2) of the Maharashtra Regional & Town Planning Act, 1966 was declared inoperative by the Division Bench of the Bombay High Court. It was held by the High Court that the land in question could not have been acquired under the said Act and all the steps relating to taking over the possession and the vesting of the land were illegal. It appears from the above report that tenant from the said property challenge the notification under Section 4 and 6 of the said Act after a considerable lapse of time and in the backdrop of the same, it was held that at times inordinate delay in approaching the Writ Court may be fatal. The Apex Court was considering the fact that a tenant cannot challenge the notification issued under Section 4 and declaration under Section 6 of the Land Acquisition Act, 1894 when the landlord has accepted the award and received the compensation. We do not find the parity of fact in the instant case that the owner of the land has approached the Court assailing the action of the authorities under the said Act in relation to the acquisition of the requisitioned land. It is gathered from the facts involved in the instant case that the petitioners were never communicated that an award has been made. It is only in reply to the Right to Information Act. They were made aware that the said award was made after the statutory period provided under Section 7A of the said Act. Immediately, an application for amendment was taken out challenging the notice issued under Section 4 (1a) of the Act having lapsed

under Section 7A of the said Act. The said amendment was allowed and, therefore, it cannot be said that there has been a considerable delay in approaching the Court for which the writ petition is liable to be dismissed. The reliance can be sufficiently made in Apex Court in case of ***Tukaram Kana Joshi and Ors. v. M.I.D.C. and Ors. Reported in (2013) 1 SCC (Civ) 491*** wherein it is held:

“11. There are authorities which state that delay and laches extinguish the right to put forth a claim. Most of these authorities pertain to service jurisprudence, grant of compensation for a wrong done to them decades ago, recovery of statutory dues, claim for educational facilities and other categories of similar cases. Though, it is true that there are a few authorities that lay down that delay and laches debar a citizen from seeking remedy, even if his fundamental right has been violated, Under Article 32 or 226 of the Constitution, the case at hand deals with a different scenario altogether. The Functionaries of State took over possession of the land belonging to the Appellants without any sanction of law. The appellants had asked repeatedly for grant of the benefit of compensation. The State must either comply with the procedure laid down for acquisition, or requisition, or any other permissible statutory mode.”

The reliance can further be placed upon in judgment of the Apex Court in ***Sukh Dutta Ratra v. State of Himachal Pradesh reported in (2022) 7 SCC 508*** wherein the Apex Court held :

“16. Given the important protection extended to an individual vis-a-vis their private property (embodied earlier in Article 31,

and now as a constitutional right in Article 300-A), and the high threshold the State must meet while acquiring land, the question remains – can the State, merely on the ground of delay and laches, evade its legal responsibility towards those from whom private property has been expropriated? In these facts and circumstances, we find this conclusion to be unacceptable, and warranting intervention on the grounds of equity and fairness.

17. When seen holistically, it is apparent that the State's actions, or lack thereof, have in fact compounded the injustice meted out to the appellants and compelled them to approach this court, albeit belatedly. The initiation of acquisition proceedings initially in the 1990s occurred only at the behest of the High Court. Even after such judicial intervention, the State continued to only extend the benefit of the court's directions to those who specifically approached the courts. The State's lackadaisical conduct is discernible from this action of initiating acquisition proceedings selectively, only in respect to the lands of 12 those writ petitioners who had approached the Court in earlier proceedings, and not other land owners, pursuant to the orders dated 23.04.2007 (Anakh Singh Vs. State) respectively. In this manner, at every stage, the State sought to shirk its

responsibility of acquiring land required for public use in the manner prescribed by law.

18. There is a welter of precedents on delay and laches which conclude the either way – as conducted by both sides in the present dispute – however, the specific factual matrix compels this Court to weigh in favour of the appellant-land owners. The State cannot shield itself behind the ground of delay and laches in such a situation; there cannot be a ‘limitation’ to doing justice. This Court in a much earlier case – Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, held: (AIR pp. 335-36 Para 11)

“11. Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material.

But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy.”

As indicated above, the delay and laches cannot be attributable to the conduct of the writ petitioner who promptly took steps after being aware of the fact that the award was made after the statutory period provided in Section 7A of the said Act and, therefore, we do not find any justification in the stand of the Mr. Ray in this regard.

However, we cannot overlook that the Land Acquisition Act, 1894 has been repealed by a subsequent Act of 2013 and that the public purpose still exist, handing over of the possession as directed by the Single Bench may invite an anomalous situation as the position has become irreversible. We, therefore, modify the impugned order to the extent that so far as the Plot no. 240 is concerned, liberty is granted to the State Government to take step under the Act of 2013 within four months from the date and shall pay the

compensation in accordance with the provisions of the said Act to the writ petitioners.

With these observations, the mandamus appeal is disposed of.

No order as to costs.

Urgent Photostat certified copies of this judgment, if applied for, be made available to the parties subject to compliance with requisite formalities.

I agree.

(Harish Tandon, J.)

(Apurba Sinha Ray, J.)