

30.07.2025.

**32
Ct.No.7.
as**

WPA 3888 of 2017

**Shyam Sundar Sharma
Vs.
The State of West Bengal & Ors.**

Mr. Tanmay Mukherjee,
Mr. Swapan Kumar Kar.
...for the Petitioner.

Mr. Ansar Mandal, Ld. AGP,
Ms. Somashree Dey.
...for the State.

Mr. Ayan Banerjee,
Mrs. Debasree Dhamali,
Ms. Riya Ghosh.
...for the SBSTC.

1. By preferring this writ petition, the petitioner has prayed for the issuance of a writ in the nature of mandamus, directing the respondents to pay compensation to the petitioner in respect of certain plots of land, in accordance with the relevant provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act').

2. Mr. Mukherjee, learned Advocate representing the petitioner, submits that for the purpose of constructing a bus depot for the South Bengal State Transport Corporation (hereinafter referred to as "the Corporation"), the concerned respondents initiated land acquisition proceedings vide Case No. LA-II/36 of 1990–91, invoking the provisions of Act II of 1948. In pursuance thereof, a notice of requisition under

Section 3(1) of the said Act was issued. Subsequently, possession of the petitioner's land was taken and handed over to the Requiring Body.

3. He submits that the Requiring Body has already constructed the bus depot and has been utilizing the petitioner's lands. However, no notice under Section 4(1a) of Act II of 1948 was ever published in the official gazette, and thereafter, no steps were taken to declare the award as per the relevant provisions of the applicable statutes, and no compensation has been paid to the petitioner.

4. He submits that, with the passage of time, Act II of 1948 has expired, and no steps have been taken to revive the land acquisition proceedings by taking recourse to Section 9(3A) of the West Bengal Land Acquisition (Amendment) Act, 1997. He further submits that it is needless to state that Act 1 of 1894 stood repealed and, therefore, the respondents have no other alternative but to publish the award and pay compensation in accordance with the relevant provisions of the 2013 Act. He prays for an appropriate direction upon the respondent authorities to declare the award and to pay compensation to the petitioner under the provisions of the 2013 Act.

5. Mrs. Dhamali, learned Advocate representing respondent Nos. 5 and 6, submits that the Requiring Body took possession of the land on 19th January, 1991 along with a construction on those lands. However, she submits that a bus depot was constructed on those lands. She further submits that in 2014, possession of the land was taken over by the

State from the Corporation and was subsequently handed over to the Calcutta Tram Company by the State.

6. Ms. Dey, learned Advocate appearing for the State, produces a list of dates filed by a party in connection with a writ petition registered as W.P. 3888 (W) of 2017, and submits that, in the said case, the Requiring Body had directly purchased the land from the landowners, and the value of the land, as assessed by the Land Reforms and Land Revenue (LR & LR) Department along with applicable interest, was duly paid to the landowners. In this case also, she submits, the State may be allowed to purchase the lands directly from the land-owners.

7. In response, Mr. Mukherjee submits that the list of dates filed in connection with another writ petition bears no relevance to the present case. He further submits that, in the instant matter, no proposal for direct purchase of land from the petitioner was ever made by the authorities. Moreover, the petitioner is not willing to accept any such proposal.

8. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

9. The record reveals that, with the objective of constructing a bus depot, a portion of land from Mouza–Sangmura, District–Barasat, North 24-Parganas, including the petitioner’s land comprising R.S. Plot Nos. 241, 242, 243, 244, 245, and 246 of the said Mouza, measuring a total area of 2.59 acres, was acquired by the concerned respondents. Possession of the said plots of land, along with certain existing structures, was taken on 19th January, 1991, pursuant to land acquisition

proceedings bearing Case No. LA-II/36 of 1991. On the same day, possession was handed over to the Requiring Body, namely, the Corporation. The notice under Section 3(1) of Act II of 1948 was issued on 18th January, 1991.

10. Admittedly, Act II of 1948 ceased to be in force on 31st March, 1997. The State did not take any steps to revive the proceedings by taking recourse to the provisions of Section 9(3A) of the Land Acquisition (West Bengal Amendment) Act, 1997, which amended Section 9 of the Land Acquisition Act, 1894 and inserted two sub-sections, viz., Sub-sections 3A and 3B.

11. It is also an admitted position that, by virtue of Section 114(1) the 2013 Act, the Land Acquisition Act, 1894 (Act I of 1894) stood repealed, and in view of the provisions of Section 24(1) of the 2013 Act, in case of any land acquisition proceedings initiated where no award was passed under Section 11 of the Act-I of 1894 as on the commencement of the 2013 Act, stood lapsed and compensation for the lands has to be paid in accordance with the relevant provisions of the 2013 Act.

12. For better appreciation of the issue raised in the writ petition, it would be apt to quote the provision of Section 24(1) of the 2013 Act which reads as follows:-

“Section 24(1)-Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (I of 1894)-

(a) Where no award under section 11 of the said Land Acquisition Act has been made, then all provisions of this Act relating to the determination of

the compensation, rehabilitation and resettlement shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2).....”

13. Sub-section (2) of Section 7 of the Act-II of 1948 mandates that in respect of the land acquisition initiated under Act-II of 1948, the amount of compensation shall be determined in accordance with the principles set out in Section 11 of the Act-II of 1948.

14. In the present case, neither the Requiring Body nor the State is in a position to assert that an award was declared or compensation was paid to the petitioner, though it is an admitted position that the petitioners lands were requisitioned by issuing a notice under Section 3(1) of the Act-II of 1948 issued in connection with the acquisition proceeding vide. case no. LA-II/36 of 1990-91.

15. Both the State and the Requiring Body have consistently stated that possession of the said land was taken from the petitioner and was initially handed over to the Corporation; however, the same was subsequently transferred to the Calcutta Tram Company by the State. Therefore, possession of the land was taken over and utilized either by the State or by the Requiring Body. However, no award has been declared and/or published nor has compensation has paid to the petitioner as yet.

16. In view of Sub-section (1) of Section 24 of the 2013 Act, the State respondents are under a statutory obligation to pay compensation in accordance with the relevant provisions of the said Act, since the land acquisition proceeding bearing No. LA-II/36 of 1990–91 stands lapsed, and no award was made or compensation paid in accordance with the principles laid down under Section 11 of the Land Acquisition Act, 1894 (Act I of 1894).

17. In view thereof, the writ petition is disposed of by directing the respondents to take steps for notifying the acquisition afresh and to assess the compensation for the plots of land referred to in the preceding paragraph, in accordance with the relevant provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The respondents are further directed to disburse the compensation to the persons interested, expeditiously, and in any event, not later than six months from the date of receipt of a copy of this order.

18. With this observation, the writ petition is disposed of.

19. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)