

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

**PRESENT:
THE HON'BLE JUSTICE BIVAS PATTANAYAK**

**W.P.A. 4177 of 2023
CAN 1 of 2023
Shibdas Mondal**

versus

Union of India & Ors.

For the Petitioner	: Mr. Tarun Das Sarma, Advocate Ms. Piyali Mukherjee, Advocate
For the Respondent Nos. 2 & 3	: Mr. Shiv Shankar Banerjee, Advocate Mr. Syed Nurul Arefin, Advocate Mr. Abhishek Chakraborty, Advocate
For Union of India	: Ms. Sumita Sarkar, Advocate
For the State-Respondents	: Mr. Soumitra Bandyopadhyay, Advocate Mr. Subhasis Bandyopadhyay, Advocate
Heard on	: 29.11.2024, 03.01.2025, 08.01.2025, 06.05.2025
Judgment on	: 25.09.2025

Bivas Pattanayak, J. :-

1. This writ petition is filed by the petitioner seeking direction upon the respondent authorities to take necessary steps to stop the process of acquisition of the subject land without due process of law.

2. The petitioner contends as follows:

(i) The predecessor-in-interest of the petitioner namely Mahadeb Mandal was the absolute owner and possessor of the scheduled property comprised within plot no. 198 to 251, 50, 51, 53 to 56, 60 to 67, 160, 161, 163 to 165, 196, 206, 208 to 213, 237, 239, 240, 302,

303, 311, 312, 380, Khatian no. 198, under Mouza-Charanpore, Barabani, District-Paschim Bardhaman measuring more or less 34.2 acres of land.

(ii) The brother of petitioner namely Thakurdas Mondal filed a civil suit being Title Suit no. 294 of 1964 seeking permanent injunction and declaration against the leaseholder that the lease period is over. The said suit was decreed on compromise and the possession of the schedule land was handed over to the petitioner. Since then, the petitioner along with other co-sharer are in vacant peaceful possession of the land-in-question by residing and also carrying on agricultural activities.

(iii) Inadvertently in the record-of-rights the name of the leaseholder has been recorded. The petitioner made an application before the appropriate authority for correction of record-of-rights and upon enquiry by the Junior Land Reforms Officer it was found that the predecessor-in-interest of the petitioner namely Mahadeb Mandal was in possession of the land in question which is reflected in the enquiry report dated 17th February 1983.

(iv) Since the corrections in the record-of-rights were not affected by the authority concerned, the petitioner preferred an application before the West Bengal Land Reforms and Tenancy Tribunal (*in short*, 'WBLRTT') being no. 3501 of 2018. The said application was disposed of directing the Block land and Land Reforms Officer to dispose of the representation of the petitioner within a period of six months from the date of filing such representation.

(v) On 12th March, 2019 the petitioner submitted a representation. A written statement was filed by *Bhanora West Block Colliery* contending that the land-in-question is the leasehold property of *Bhanora Colliery* and it belonged to *M/s Apar Colliery* before nationalisation of collieries and after nationalisation the land-in-question had automatically been possessed by Eastern Coalfields Limited. The prayer of the petitioner for correction of record-of- rights was rejected by the Block Land and Land Reforms Officer.

(vi) Challenging the aforesaid order, the petitioner and others filed a writ petition being W.P no. 19665 (W) of 2019, which is still pending for disposal.

(vii) The respondents are trying to grab the entire land by way of acquisition without giving any opportunity and a prior notice to the petitioner. On 13th February 2023 some men, claiming themselves to be the workers of the respondent no.2, Chairman-cum-Managing Director, Eastern Coalfields Limited, came to plot no.311 and adjacent plots for causing survey and starting construction work. From them the petitioner came to learn of such acquisition of the land-in-question by respondents-Eastern Coalfields Limited.

(viii) Notice issued on 30th July 2022 for acquisition of certain land including the land of the petitioner by the respondent authorities, till date has not been served upon the petitioner.

(ix) Being aggrieved by and dissatisfied with the said action of the respondent authorities, the petitioner has preferred the present writ petition.

3. The writ petition has been keenly contested by the respondent no.2 & 3-Eastern Coalfields Limited, denying, *inter alia*, the averments made in the writ petition and contending as follows:

(i) Respondent no.3- Eastern Coalfields Limited is the present owner of the plots in question. The R.S record-of-rights and L.R record- of-rights correctly record the name of *M/s Apcar Collieries Limited* under Khatian no.45 of Mouza-Charanpur under Block Baraboni, District-Paschim Bardhaman since it belonged to *M/s Apcar Collieries Limited* prior to nationalisation of collieries. Thereafter, it automatically vested to Eastern Coalfields Limited in terms of Coal Mines Nationalisation Act, 1973 (*hereinafter referred to as the 'Act of 1973'*) and presently the land- in-question is under the ownership and control of the Eastern Coalfields Limited authorities.

(i) As per report of Sub-Divisional Land and Land Reforms Officer, Asansol made in the year 1991, in respect of *Charanpur Colliery*, Baraboni, the underground coal bearing land of *Charanpur Colliery* located in Mouza-Charanpur was under the ownership of Maharaja of Burdwan. The Burdwan Raj created a *Pattani* settlement in favour of one Sambhunath Singh in 1218 BS from whom one Kashinath Mondal took *sepattani* rights. *M/s Apcar Collieries Limited* thereafter obtained *sepattani* rights in 1223 BS and started mining operations in the property and raised coal.

(ii) Burdwan Raj raised objection to the raising of coal *by M/s Apcar Colliery Limited* and thereafter upon compromise a mining lease was granted in favour of *M/s Apcar Colliery Limited*, which started mining

operations in the land-in-question under the name and style of '*Charanpur Colliery*'. *M/s Apcar Colliery Limited* went on liquidation and all rights, obligations to the property including coal mining rights were transferred in favour of *M/s Equitable Coal Company* which did mining operations until nationalisation of collieries as per Coal Mines Nationalisation Act, 1973.

(iii) The plots-in-question, upon nationalisation of collieries, vested with Eastern Coalfields Limited which also performed mining operations over the said leasehold premises and at present is a closed mine and the said property is held by Eastern Coalfields Limited. The '*Charanpur Colliery*' is recorded at serial no. 456 of the schedule appended to Coal Mines Nationalisation Act, 1973.

(iv) The writ petitioner has suppressed materials particulars pertaining to order dated 16th May 2018 passed by Block Land and Land Reforms Officer, Baraboni, Paschim Bardhaman in Misc Case no. 01 (Law) of 2019. The writ petitioner previously filed a writ petition before this Hon'ble Court on 6th August (year not legible) and a direction was passed for considering the representation of the petitioner for rectification of records-of- rights. Pursuant thereto no such application was filed by the writ petitioner for correction of record-of-rights.

(v) The writ petitioner without applying for correction of record-of-rights pursuant to the aforesaid order, filed another writ petitioner being W.P no. 22853 (W) of 1998, wherein on 4th January, 1999 a direction was issued to the writ petitioner to file a representation

before the Block Land and Land Reforms Officer, Baraboni, who was directed to dispose of the said representation.

(vi) The petitioner on the self-same matter filed another application before the WBLRTT being OA No. 2163 of 2003 for correction of record-of- rights and upon hearing the matter was disposed of on 22nd November 2004 directing the Block Land and Land Reforms Officer, Baraboni to treat the said application as representation before him and dispose of the same in accordance with law by a reasoned order after affording reasonable opportunity of being heard to the writ petitioner. It further made clear that if the land has vested in the State under the provisions of West Bengal Estate Acquisition Act, 1955 (*In short 'WBEA Act'*) the application shall be disposed of taking into consideration the provisions of the said Act. Upon due consideration the prayer of the petitioner was rejected by the Block Land and Land Reforms Officer, Baraboni on 18th December 2009.

(vii) Instead of approaching the ADM (LR) against such order, the writ petitioner filed another application before WBLRTT being OA no. 3501 of 2018 on the selfsame cause of action which was previously decided by the authority concerned. However, the writ petitioner prayed for withdrawal of the said application due to some inherent defects and on his prayer, liberty was given to file fresh representation. Representation was filed on 12th March 2019 which was disposed of with the similar findings.

(viii) Again, another writ petition being W.P no. 19665 (W) of 2019 was filed by the petitioner praying for correction of record-of-rights and to

stop the process of vesting of land. The said writ petition was dismissed for default on 5th February 2024. It is evident that the said writ petition was filed with malafide intention based on surmises and conjectures.

(ix) The writ petitioners wilfully and deliberately by suppressing material facts filed civil suits one after the other seeking order of injunction.

(x) In light of the above, the respondent nos. 2 & 3-Eastern Coalfields Limited prayed for dismissal of the writ petition.

4. The State respondent nos. 7 & 9 filed its report in the form of affidavit in terms of order of this court dated 29th January 2024.

5. Mr. Tarun Das Sarma, learned advocate for the petitioner submitted that the predecessor-in-interest of the petitioner namely Mahadeb Mandal was the absolute owner and possessor of the land-in-question. The brother of the petitioner filed a civil suit being Title Suit no. 294 of 1964 seeking permanent injunction and declaration against the leaseholder that the lease period is over. The said suit was decreed on compromise and the possession of the schedule land was handed over to the petitioner and others. Since then, the petitioner and other co-sharers are in vacant peaceful possession of the land-in-question by residing and also carrying on agricultural activities. However, out of inadvertence the name of the leaseholder has been recorded in the record-of-rights. In order to effect correction in the record-of-rights the petitioner filed an application being 3501 of 2018 before the WBLRTT wherein a direction was issued to the Block Land and Land Reforms Officer to dispose of the representation of

the petitioner with regard to correction of record-of-rights and however such prayer was rejected by the authority concerned. The petitioner preferred a writ petition being no. WPA no. 19665 of 2019, which has been dismissed for default. In the meantime, the respondents are trying to grab the entire land by way of acquisition without prior notice to the petitioner. Some men, claiming themselves to be the workers of the respondent no.2, Chairman-cum-Managing Director, Eastern Coalfields Limited, came to plot no.311 and adjacent plots for holding survey and starting construction work and from them the petitioner came to learn of such acquisition of the land-in-question by respondent-Eastern Coalfields Limited. Though notice has been issued on 30th July 2022 for acquisition of certain land including the land of the petitioner by the respondent authorities, yet till date it has not been served upon the petitioners. The entire process of acquisition undertaken by respondent authorities is *dehors* the scope and provision of law. The petitioner and other co-sharers having right, title and interest over the land-in-question cannot be evicted therefrom. Challenging such action of the respondent authorities the petitioner has preferred the present writ petition. He seeks for appropriate direction upon the respondent authorities to take necessary steps to stop the process of acquisition of the land-in-question without due process of law.

6. On the contrary, Mr. Shiv Shankar Banerjee, learned advocate appearing for respondent nos. 2 & 3-Eastern Coalfields Limited submitted that admittedly the land-in-question was leased out to the leaseholder and mining operations were carried on since long and therefore the nature of

land is a coalmine. The Coal Mines (Nationalisation) Act, 1973 was enacted to provide for acquisition and transfer of the right, title and interest of the owners in respect of the coalmines in order to re-organise and reconstruct such coalmines to ensure proper utilisation. As per the definition under the said Act of 1973, '*mine*' means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on. In terms of Section 3 of the said Act of 1973, which provides for acquisition of rights of owners in respect of coalmines, on the date of coming into force of the said Act, the right, title and interest of the owners in respect of the coalmines specified in the schedule shall stand transferred to and shall vest absolutely in, the Central Government free from all encumbrances. The *Charanpur Colliery* owned by *M/s Apcar Colliery* which used to run mining operations in the land-in-question, till its liquidation, has been mentioned in the schedule of the said Act. Section 8 of the said Act of 1973 provides that the owner of every coalmine or group of coalmines shall be given by the Central Government, in cash and in the manner specified in Chapter VI, for the vesting in it, under section 3, the right, title and interest of the owner in relation to the aforesaid coalmine, an amount equal to the amount specified against it in the corresponding entry of the schedule. Thus, with the coming into force of the Act of 1973, the land-in-question which is a coalmine has vested with the Central Government and upon such vesting, the Act of 1973 provides for the amount of payment to be made to the owners of the coalmine. Therefore, the petitioner cannot claim any right over the land-in-question upon such statutory vesting of the coalmine.

The brother of the petitioner namely Thakur Das Mondal, filed a suit being Title Suit no. 294 of 1964 for correction of record-of-rights standing in the name of *M/s Apcar Colliery Limited* and the said suit was decreed on compromise. However, such compromise was effected without impleading the State of West Bengal as a party-defendant, which as per the petitioner made incorrect recordings in the record-of-rights as alleged. Therefore, the decree on compromise is not binding upon the State of West Bengal.

In order to effect correction in the record-of-rights the petitioner filed misconceived applications one after the other. At first a writ petition was filed before this Hon'ble Court on 6th August (year not legible) and a direction was passed for considering the representation of the petitioner for rectification of records-of-rights. Without applying for correction of record-of-rights pursuant to the aforesaid order, the petitioner filed another writ petitioner being W.P no. 22853 (W) of 1998, wherein on 4th January, 1999 a direction was issued to the writ petitioner to file a representation before the Block Land and Land Reforms Officer, Baraboni, who was directed to dispose of the said representation. Again, another application with the similar prayer for correction of record-of-rights was filed before the WBLRTT being OA No. 2163 of 2003 which was disposed of on 22nd November 2004 directing the Block Land and Land Reforms Officer, Baraboni to treat the said application as representation before him and dispose of the same in accordance with law by a reasoned order after affording reasonable opportunity of being heard to the writ petitioner. Upon hearing the concerned authority rejected the prayer of the petitioner. Subsequent thereto instead of challenging the said order before the ADM

(LR), the writ petitioner filed another application being OA no. 3501 of 2018 before the WBLRTT on the self-same cause of action which was previously decided by the authority. The said application was withdrawn on the ground of certain inherent defects and on his prayer, liberty was given to file fresh representation. The authority for the second time decided the application against the petitioner. Another writ petition being no. 19665 (W) of 2019 was filed by the petitioner praying for correction of record-of-rights and to stop the process of vesting of land. The said writ petition was dismissed for default on 5th February 2024. Thus, it would appear that the petitioner with ulterior motive tried to overreach the judicial process by filing cases one after the other to have a favourable order. Further the present writ petition was filed on the same cause of action without seeking permission to withdraw the earlier writ petition and liberty to file afresh as required under Order 23 of the Civil Procedure Code.

Moreover, the petitioner has also filed several civil suits in respect of the land-in-question seeking injunction over the said property. The petitioner has pursued the present writ petition without disclosing the material facts and in order to have an order in his favour, suppressed certain facts which are relevant to the present writ petition. Such act of the petitioner amounts to fraud on court. Fraud vitiates the solemn proceedings and no right can be claimed by a fraudster on the ground of technicalities. All surprise, trick, cunning, dissembling and other unfair way that is used to cheat anyone is fraud. Fraud and justice never dwell together and it cannot be

perpetuated or saved by the application of any equitable relief. To buttress his contentions relied on the following decision of Hon'ble Supreme Court.

- (i) ***S.P Chengalvaraya Naidu (Dead) by LRS versus Jagganath (Dead) by LRS and Others*¹**
- (ii) ***Satluj Jal Vidyut Nigam versus Raj Kumar Rajinder Singh (Dead) Through Legal Representatives and Others*²**

In light of his aforesaid submissions, he sought for dismissal of the writ petition.

7. Mr. Soumitra Bandyopadhyay, learned advocate representing the State-respondents submitted that a field enquiry was conducted on 7th March 2024 in presence of the writ petitioner over L.R plot no. 53 to 55, 302 and others and during enquiry it revealed that the plot nos. 196, 237, 239, 240 and 303 of Mouza-Charanpur, J.L no. 52 are in direct control of the Eastern Coalfields Limited and mining activities were going on. The other plots being plot nos.53 to 56 and others are lying vacant and abandoned. It further revealed during enquiry that the Burdwan Raj Estate leased out a total area of 1964 bighas of mining land to *M/s Apcar Colliery* with effect from 1st April 1919 and subsequently *M/s Apcar Colliery* transferred its rights including coal mining rights to *M/s Equitable Coal Co Ltd.* with effect from 1st November 1955. The colliery was nationalised as per Coal Mines (Nationalisation) Act, 1973 and mining activities continued till 16th April 1987. The L.R record-of-rights stands in the name of *M/s Apcar Colliery* in respect of Khatian no.45. The land-in-question has vested

¹ (1994) 1 SCC 1

² (2019) 14 SCC 449

in the State under Section 29 of the WBAE Act. Therefore, the petitioner cannot claim any right over such vested land. The writ petition is totally misconceived one.

8. Upon hearing the learned advocates for the respective parties following issues have fallen for consideration.

- (i) Whether the land-in-question have vested with the State and the Central Government after coming into force of Coal Mines (Nationalisation) Act, 1973?
- (ii) Whether the petitioner has any right to resist the process of acquisition of the land-in-question?
- (iii) Whether the petitioner intentionally suppressed material facts before the court?

Issue no.(i) Whether the land-in-question have vested with the State and the Central Government after coming into force of Coal Mines Nationalisation Act, 1973?

9. As per the writ petitioner the land-in-question was leased out to *M/s Apcar Colliery*. Be that as it may, in the affidavit-in-opposition, the respondent nos. 2 & 3-Eastern Coalfields Limited have categorically stated of the factual background of the land-in-question. The Annexure R1 to the affidavit-in-opposition which is a report of Sub-Divisional Land and Land Reforms Officer of the year 1991 prepared in respect of *Charanpur Colliery* shows that the underground coal bearing land of said Colliery located in Mouza-Charanpur was under the ownership of Maharaja of Burdwan. The Burdwan Raj created a *Pattani* settlement in favour of one Sambhunath Singh in 1218 BS from whom one Kashinath Mondal took *Sepattani* rights. *M/s Apcar Colliery Limited* thereafter obtained *Sepattani* rights and started

mining operations in the property and raised coal in land-in-question under the name and style of '*Charanpur Colliery*'. *M/s Apar Collieries Limited* went on liquidation and all rights, obligations to the property including coal mining rights were transferred in favour of *M/s Equitable Coal Company*. Further as per the available records *M/s Apar Collieries* and *M/s Equitable Coal Company* did mining operation through its original 54 pits in *Koithi* and *Ponlata* upto 1964 and it was then closed. The colliery was nationalised in the 1973 and mining operations were undertaken by Eastern Coalfields Limited by open cast operation in the year 1974 to 1977 and then it was closed. Again, the Eastern Coalfields Limited. performed mining operations over the said property in the year 1986-1987 and it was closed on and from 16th April 1987. The said property is held by Eastern Coalfields Limited at present. Such report is also annexed to the report furnished by the State-respondents and it relies on the same. The State-respondents in its report in the form of affidavit stated that during enquiry an abstract of land for mining area was received from Chief Mining Officer, Government of West Bengal which contained a brief history of the instant colliery and it annexed the said document. On the perusal of the said abstract (Annexure R3) of the report it is found that the name of the colliery indicated therein is '*Charanpur Colliery*' and the date of commencement of business is 1919. The land over which such mining was undertaken is under Mouza-Charanpur, J.L no.52, P.S_Baraboni, District-Burdwan. The name of the proprietor is *M/s Equitable Coal Co. Ltd.* Further it is depicted in the report of the Sub-Divisional Land and Land Reforms Officer that *M/s Equitable Coal Co Ltd* was a direct lessee in

respect of 1964 bighas of coal land in Mouza-Charanpur, J.L no.52, P.S - Baraboni and came under the purview of Section 29 of the WBEA Act. Therefore, there cannot be any quarrel that the land-in-question was used for the purpose of mining since the year 1919 till it was closed on 16th April 1987.

9.1 The petitioner contended that the name of *M/s Apcar Colliery* recorded in the L.R record-of-rights has been wrongly recorded. The petitioners made application before the appropriate authority for correction of record-of-rights. Since the corrections in the record-of- rights were not effected by the authority concerned, the petitioners preferred an application before the WBLRTT being no. 3501 of 2018. The said application was disposed of directing the Block Land and Land reforms Officer to dispose of the representation of the petitioners. On 12th March, 2019 the petitioner submitted representation to the authority concerned. The said application of the petitioner for correction of record-of-rights was rejected by the concerned authority vide order no. 5 dated 16th May 2018 since as per Section 29 of the WBEA Act, which provides that all leases of mines and minerals in a notified area granted by an intermediary and subsisting immediately before the date of vesting shall, with effect from such date, be deemed to have been granted by the State Government to the holder of the said subsisting lease on the same terms and conditions as of the subsisting lease, it held that the State became the lessor of the disputed land as the said colliery was subsisting before the date of vesting as well as after the date of vesting. It further held that the claim for recording of the land comprising Mines & Minerals covered by Chapter IV

of WBEA Act, 1953 in favour of the petitioner is not maintainable. Moreover, it is found from the said order that the petitioner failed to produce any registered document with the land schedule in support of their claim. It further held that the decree passed on compromise in Title suit no. 294 of 1964 is not binding upon the State as the State of West Bengal was not made a party in the said suit.

9.2 It is relevant to place on record that the petitioner previously also filed an application on the similar prayer for correction of record-of-rights before the WBLRTT being OA no. 2163 of 2003 (at page 105 of the affidavit-in-opposition) which was disposed of on 22nd November 2004 directing the Block Land and Land Reforms Officer, Baraboni to treat the said application as representation before him and dispose of the same in accordance with law by a reasoned order after affording reasonable opportunity of being heard to the writ petitioner. Upon hearing the concerned authority rejected the prayer of the petitioner on 18th December 2009 with the similar findings as of the subsequent order. The petitioner has not specifically disclosed of the previous rejection of his prayer for correction of record-of-rights in the present writ petition.

9.3 It is pertinent to note that the earlier order dated 18th December 2009, rejecting the prayer of the petitioner for correction of record-of- rights by the authority concerned, is not challenged before any authority. The petitioner filed a writ petition being WP No. 19665 (W) of 2019 challenging the second order rejecting his prayer for correction of record-of-rights dated 16th May 2018 however during the course of hearing it has been informed by the learned advocate for the petitioner that the said writ

petition was dismissed for default and he submitted before the court that the petitioner would not pursue the said writ petition. Thus, both the orders of the concerned authority rejecting the prayer of the petitioner for correction of record-of-right has not been challenged. Thus, those orders have reached finality.

9.4 In the foregoing paragraph it has already been found from the records that mining operation was done in the land-in-question from the year 1919 till 1987. In view of Section 2(a) of the Coal Mines (Nationalisation) Act, 1973 it came into effect on and from 1st May 1973. The object of the aforementioned Act is to provide for the acquisition and transfer of the right, title and interest of the owners in respect of the coal mines specified in the Schedule with a view to re-organising and reconstructing such coal mines so as to ensure the rational, co-ordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, in order that the ownership and control of such resources are vested in the State and thereby so distributed as best to subserve the common good, and for matters connected therewith or incidental thereto. As per section 2(b) of the Act a '*coalmine*' means a mine in which there exists one or more seams of coal. On the date the Act came into force i.e. 1st May 1973 the mining operations were being carried on over the land-in-question. Therefore, the land-in-question is a '*coalmine*' under the said Act. Section 3 of the Act- *Acquisition of rights of owners in respect of coal mines* -provides that on the appointed day (i.e 1st May 1973), the right, title and interest of the owners in relation to the coal mines specified in the Schedule shall stand transferred to, and shall vest absolutely in, the

Central Government free from all incumbrances. Further Section 8 of the Act-*Payment of amount to owners of coal mines*.—provides in sub-section (1) that the owner of every coal mine or group of coal mines specified in the second column of the Schedule, shall be given by the Central Government, in cash and in the manner specified in Chapter VI, for the vesting in it, under section 3, of the right, title and interest of the owner in relation to such coal mine or group of coal mines, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the Schedule. The name of '*Charanpur Colliery*', which is the subject matter of the present writ petition, appears in the Schedule of the Act at Serial no. 456.

9.5 The petitioner claims that he and other co-sharer are in possession of the land handed over by *M/s Apcar Colliery* and is also reflected in the report of the Junior Land Reforms Officer. Be that as it may, with coming into force of WBEA Act in the year 1953, such land being a mining land vested with the State. Therefore, the claim of the petitioner over such land is not sustainable.

9.6 Hence, in view of the rejection of the prayer of the petitioner for correction of record-of-rights by the authority concerned and bearing in mind the aforesaid statutory provision of the Act of 1973, the land-in-question has been transferred to and vested absolutely with the Central Government on and from 1st May 1973. In such circumstances the petitioner cannot claim title to the land-in-question which is a coalmine as per the Act of 1973.

Issue no.(ii) Whether the petitioner has any right to resist the process of acquisition of the land-in-question?

10. The petitioner contends that the respondents are trying to grab the entire land in question by way of acquisition without giving any opportunity and a prior notice to the petitioner. On 13th February, 2023 some men, claiming themselves to be the workers of the respondent no.2, Chairman-cum-Managing Director, Eastern Coalfields Limited, came to the plot no.311 and adjacent plots for causing survey and starting construction work. From them the petitioner came to learn of such acquisition of the land in question by respondent-Eastern Coalfields Limited. Notice has issued on 30th July, 2022 for acquisition of certain land including the land of the petitioners by the respondent authorities, which till date has not been served upon the petitioners.

10.1. In the foregoing paragraph it is found that the petitioner during hearing before the authority concerned with regard to his prayer for correction of record-of-rights failed to produce any registered document in support of his claim to the land-in-question. It is also found that with operation of statutory provisions of Coal Mines (Nationalisation) Act, 1973 the right, title and interest of the owners in relation to the coal mines specified in the Schedule stood transferred to, and vested absolutely in, the Central Government free from all incumbrances in respect of the land in question. Therefore, as the petitioner has no existing right, title and interest in the land-in-question after coming into force of the aforesaid Act of 1973, he has no right to resist any acquisition of the land-in-question. Accordingly, his prayer in the present writ petition seeking direction upon

the respondent authorities to take necessary steps to stop the process of acquisition of the subject land without due process of law falls short of merit.

Issue no. (iii) Whether the petitioner suppressed material facts before the court which results in fraud upon court?

11. Relying on the decision of Hon'ble Supreme Court in *Chengalwaraya Naidu (supra)* and *Satluj Jal Vidyut Nigam (supra)*, Mr Banerjee, learned advocate for respondent no. 2 & 3- Eastern Coalfields Limited vociferously argued that the petitioner has not disclosed all the previous litigations pursued before different forums including this Hon'ble Court which is an act of fraud in order to take advantage of the situation and obtain a favourable order by suppression of material facts.

11.1. The respondent nos. 2 & 3-Eastern Coalfields Limited in its affidavit-in-opposition has stated that the writ petitioner filed following cases.

- (i) A writ petition before this Hon'ble Court on 6th August (year not legible).
- (ii) Without applying before the authority concerned for correction of record-of-rights pursuant to the order passed in above writ petition, the petitioner filed another writ petition being WP No. 22853 (W) of 1998, wherein on 4th January, 1999 a direction was issued to the writ petitioner to file a representation before the Block Land & Land Reforms Officer, Baraboni, who was directed to dispose of the said representation.
- (iii) On the self-same matter another application was filed before the WBLRTT being OA no. 2163 of 2003 for correction of record-of-

rights, which was disposed of directing the authority concerned to consider the representation of the petitioner. Upon due consideration the prayer of the petitioner was rejected by the Block Land and Land Reforms Officer, Baraboni on 18th December 2009.

- (iv) After filing of the present writ petition the petitioner filed a civil suit being no. 741 of 2023 before the Learned Civil Judge (Junior Division), 2nd Court, Asansol on the selfsame cause of action, where an order of injunction has been passed.

Needless to mention that the filing of the aforesaid cases by the petitioner has not been denied. The earlier two writ petition and the application before WBLRTT being OA 2163 of 2003 has not been pleaded in the writ petition. The order passed by the Block Land and Land Reforms Officer rejecting the prayer of the petitioner for correction of record-of-rights pursuant to order passed in OA no. 2163 of 2003 is also not mentioned specifically. The petitioner again filed an application before WBLRTT being OA 3501 of 2018 and subsequently withdrew the said application but sought for liberty to make representation before the authority concerned for correction of record-of-rights and liberty was granted. Despite full knowledge that his prayer for correction of record-of-rights was rejected earlier by order dated 18th December, 2009 by Block Land and Land Reforms Officer, he sought for liberty to approach the authority concerned with similar prayer. The petitioner after filing of the present writ petition filed a civil suit being no. 741 of 2023 seeking for a declaration that the plaintiffs are the actual owners of the schedule property. It is pertinent to

note that in the present writ petition the petitioner asserts that he and other co-sharers are the absolute owners whereas in the suit he seeks for declaration of his title in respect of the certain plots which are part of the land-in-question. The petitioner obtained an order of injunction in the said suit. The said suit was never disclosed by the petitioner before this court till it was indicated in the affidavit-in-opposition of respondent nos 2 & 3-Eastern Coalfields Limited, when in his affidavit in reply the petitioner stated of an order of injunction being passed therein.

From the aforesaid it is found that there is material suppression of previous litigations pursued by the petitioner. Such ground itself disentitles the petitioner to any relief as prayed for. This court finds substance in the submissions of Mr Banerjee, learned advocate for the petitioner relying on *Chengalvaraya Naidu (supra)* and *Satluj Jal Vidyut Nigam (supra)* in this regard.

12. It has been strenuously argued on behalf of respondent nos.2 & 3-Eastern Coalfields Limited that the present writ petition was filed on the same cause of action without seeking permission to withdraw the earlier writ petition being no. W.P no. 19665 (W) of 2019 and liberty to file afresh as required under Order 23 of the Civil Procedure Code. As such the present writ petition is not maintainable.

Upon going through the copy of the writ petition being no. W.P no.19665 (W) of 2019 it is found that precisely in the said writ petition the petitioner has raised his grievance with regard to rejection of his prayer for correction of record-of-rights by the Block Land and Land Reforms Officer, pursuant to passing of the order in OA 3501 of 2018 and sought for stopping of the

vesting by the respondents. In the present writ petition the petitioner has sought for stopping of Acquisition. The prayers appear to be distinct though based on similar set of facts. Be that as it may, the present writ petition was heard since the earlier writ petition was dismissed for default on 5th February, 2024 and the learned advocate for the petitioner informed the court that the said writ petition will not be proceeded further by the petitioner. In such circumstances the argument advanced by learned advocate for respondent nos. 2 & 3-Eastern Coalfields Limited regarding maintainability of writ petition loses relevancy.

13. In light of the above discussion, the present writ petition falls short of merit and is liable to be dismissed.

14. Accordingly, the writ petition being no. **W.P.A 4177 of 2023** stands dismissed.

15. There shall be no order as to costs.

16. All connected applications, if any, stands disposed of.

17. Interim orders, if any, stand vacated.

18. Urgent photostat certified copy of the order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)