

S/L 15
27.02.2025
Court. No. 551
*Sourav/
Pritam*

**WPA 6526 of 2011
With
CAN 1 of 2015 (Old No. CAN 3499 of 2015)
With
CAN 2 of 2015 (Old No. CAN 3500 of 2015)
With
CAN 3 of 2018 (Old No. CAN 10026 of 2018)
With
CAN 4 of 2023
With
CAN 7 of 2024**

**M/s. Calcutta Soap Works Represented by
Deepak Dhadha @ Deepak Paraschand Dhara
Vs.
The State of West Bengal & Ors.**

*Mr. Utpal Majumdar
Ms. Shreya Ghosh Dastidar*

...for the petitioner.

*Mr. Pankaj Halder
Mr. Prashant Kumar Tripathi*

...for the State.

*Mr. Satyajit Talukder
Mr. Arindam Chatterjee*

...for K.M.D.A.

CAN 1 of 2015 (Old. No.3499 of 2015)

This is an application for substitution of one Anita Dhadha in place and stead of deceased Sohan Singh Dhadha, who was the original partner of the writ petitioner company. It reveals from the order dated October 6, 2023 that while disposing of CAN 4 of 2023, a co-ordinate bench of this court allowed the application for substitution of one Deepak Dhadha who is the beneficiary of the last Will and Testament of Anita Dhadha since deceased. In view of such, **CAN 1**

of 2015 (Old. No.3499 of 2015) has become infructuous and is disposed of.

CAN 2 of 2015 (Old No. CAN 3550 of 2015)

By filing the instant petition, the writ petitioners prayed for listing of the instant writ petition for early hearing. Since the instant writ petitioners have already been listed, this court also considers that **CAN 2 of 2015 (Old No.3500 of 2015)** has also become infructuous and is disposed of.

CAN 3 of 2019 (Old No. CAN 11707 of 2019)

1. This is an application at the instance of one Lakshhya Dhadha praying for substitution of his name as substituted writ petitioner on account of death of Smt. Anita Dhadha wife of original partner of the writ petitioner-firm. As discussed hereinabove, by an order dated October 6, 2023, this court allowed one Deepak Dhadha to be substituted in place and stead of the original partner of the writ petitioner firm pursuant to the probated will of Smt. Anita Dhadha, deceased.
2. In view of such, **CAN 3 of 2015 (Old No. CAN 11707 of 2019)** cannot be entertained and is, thus, dismissed.

In Re: CAN 7 of 2024

1. By filing CAN 7 of 2024, the writ petitioner has prayed for disposal of the instant writ petition by allowing the prayer as made in the writ petition.
2. Since the writ petition is now ready for hearing, no relief can be granted pursuant to the prayer made in CAN 7 of 2024.

3. With the aforementioned observation, the interim application being **CAN 7 of 2024** is also disposed of.

In Re: WPA 6526 of 2011

1. In the instant writ petition, the writ petitioner has challenged the notice dated 08.07.2010 and subsequent notice dated 11.03.2011 as issued by the Competent Authority, Kolkata, Government of West Bengal and Senior Assistant Valuer, Kolkata Improvement Trust being custodian of ULCRA Land respectively.
2. Mr. Majumdar, learned Counsel appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page No. 15 being the copy of the notice dated 08.07.2010 whereby and whereunder, the writ petitioner was directed to handover 1146.37 Sq. Mtrs. of land in premises no. 2, 2A and 3, Bediadanga 1st Lane, Kolkata in favour of the respondent no. 2. It is submitted by Mr. Majumdar that from the said notice, it would reveal that no separate measurement of lands was given in respect of each of the premises sought to be possessed by the respondent no. 2 and in absence of such measurement and in absence of any schedule, it can safely be presumed that the said notice dated 08.07.2010 is vague and on this score alone, the same may be set aside.
3. In his next fold of submission, Mr. Majumdar drawing attention of this Court to Page No. 19 of the instant writ petition submits that all on a sudden on 11.03.2011, the writ petitioner/firm was served with a notice from the respondents/authorities wherein it has been indicated

that the respondents/authorities have taken possession of the vested portion of the aforementioned three premises. It is submitted by Mr. Majumdar that issuance of such notice is palpably bad inasmuch as the writ petitioner is still in possession of the said portion of the alleged vested land and thus issuance of such notice dated 11.03.2011 at the behest of the respondents/authorities cast a shadow of doubt in respect of the right, title and interest of the writ petitioner.

4. It is thus submitted by Mr. Majumdar that since the writ petitioner's valuable constitutional right to property as enshrined in Article 300A of the Constitution of India has been violated appropriate writ/writs may be issued against the respondents/authorities for quashing of the aforesaid two letters as prayed for.
5. Per contra, Mr. Halder, learned advocate appearing on behalf of the respondent/State draws attention of this Court to the affidavit-in-opposition as filed before this Court. It is submitted by Mr. Halder that from Page Nos. 2, 3 and 4 of the affidavit-in-opposition as filed by the respondent/State and as affirmed on 01.04.2024 the following would be revealed:
 - i) *In the year 1988, a proceeding was drawn by the then Competent Authority, Kolkata and pursuant to such proceeding, the writ petitioner/firm was permitted to retain 3894.18 Sq. Mtrs. and residual 1480.82 Sq. Mtrs. of area as a tank was declared as excess*

vacant land in respect of aforementioned three premises.

- ii) The writ petitioner felt aggrieved and preferred an appeal before the appellate authority.*
- iii) The appellate authority vide its order dated 10.10.1996 while disposing the said appeal held that the appellant (the writ petitioner herein) did not have any excess land. However, the said appellate authority observed that in the event, the tank is filled up in future, naturally or otherwise the entire filled up land would be vested in the State.*
- iv) On 29.06.2006, the Competent Authority, Kolkata received a complaint of illegal filling of the said tank.*
- v) A show cause notice was issued to the writ petitioner/firm.*
- vi) An enquiry was conducted wherein it was found that out of 1480.82 Sq. Mtrs. only 316 Sq. Mtrs. remained as water body and the rest of the area was filled up.*
- vii) Subsequent thereto, a proceeding was initiated against the writ petitioner/firm and in the said proceeding 1146.37 Sq. Mtrs. of land was declared vested as excess vacant land.*
- viii) Accordingly, on 08.07.2010 notice under Section 10(5) of the Urban Land (Conciliation and Regulation) Act, 1976 was served upon the writ petitioner to surrender his possession in respect of the said quantum of land.*

6. In course of his submission and in support of the affidavit-in-opposition, Mr. Halder draws attention of this Court to the order of the appellate authority at Page Nos. 11 and 12 of the affidavit-in-opposition, the relevant gazetted notification dated 14.05.2010

containing the schedule of the vested land and a copy of the gazetted declaration dated 06.07.2010 at Page No. 13 showing vesting of the 1146.37 Sq. Mtrs. of land in premises no. 2, 2A and 3, Bediadanga 1st Lane, Kolkata. It is argued by Mr. Halder that the process of vesting has been done in accordance with law and the writ petitioner have not challenged the vesting process and on the contrary, he has challenged the subsequent notices which ought not to be entertained.

7. Mr. Talukder, learned advocate appearing on behalf of the respondent/K.M.D.A. authority supports the contention of Mr. Halder, learned advocate for the State.
8. On careful consideration of the entire materials as placed before this Court, it reveals to this Court that sufficient materials have been placed before this Court that pursuant to the leave granted by the appellate authority on 10.10.1996, the Competent Authority on receipt of the complaint, caused an enquiry and came to a finding with regard to the illegal filling of tank. Materials have been placed before this Court that since the writ petitioner could not give any satisfactory reply with regard to the alleged illegal filling of tank, the relevant notification was issued in accordance with law and subsequent thereto the land in question was vested.
9. As rightly pointed out by Mr. Halder that the writ petitioner made no venture to challenge the said vesting proceeding and on the contrary, the writ petitioner/firm has come forward to challenge the

subsequent two notices whereby and whereunder the writ petitioner/firm was directed to handover possession of the said land and subsequently, the respondent/State by issuing the notice dated 11.03.2011 has taken possession of the said land.

10. Since the aforementioned two notices which are the subject matter of challenge in the instant writ petition is the outcome of the vesting proceeding which in considered view of this Court has been done in accordance with law, this Court considers that no interference is called for challenging the legality and validity of the subsequent two notices as prayed for.
11. As rightly pointed out by Mr. Talukder that from Page Nos. 14 and 15 of the affidavit-in-opposition, it reveals that the concerned officer was permitted to take possession of the said vested land in terms of Section 10(6) of the Urban Land (Conciliation and Regulation) Act, 1976 and accordingly, the same was taken.
12. This Court thus, finds no merit in the instant writ petition.
13. Accordingly, the instant writ petition being **WPA 6526 of 2011** is dismissed.
14. There shall, however, be no order as to costs.
15. 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.)