

Item No.120
28.04.2025
Court. No. 19
GB

W.P.A. 8682 of 2023
With
CAN 1 of 2025

Bhola Nath Pal & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Das

...for the Petitioner.

*Mr. Chandi Charan De,
Mr. Anirbar Sarkar*

...for the State.

*Mr. Amit Kumar Pan,
Mr. Dipankar Das*

...for the Respondent Nos.7 to 10.

1. The affidavit-in reply as filed today on behalf of the writ petitioners is taken on record.
2. This Court has heard Mr. Das, learned advocate for the writ petitioners, Mr. De, learned Additional Government Pleader appearing for the respondent/State and its functionaries and Mr. Pan, learned advocate appearing on behalf of the respondent nos.7 to 10.
3. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ/writs for declaring acquisition notice under notification no.16304 L.A.(PW) dated November 29, 1968 as published in the official Gazette on January 2, 1969 as lapsed in terms of Section 7A of the Act II of 1948 and also under Section 24 of the Right to Free Compensation and Transparency in Land Acquisition, Rehabilitation of Resettlement Act, 2013 along with other ancillaries.

4. At the time of hearing Mr. Das, learned advocate appearing on behalf of the writ petitioners draws attention of this Court to page nos.120 and 121 of the instant writ petition being a server copy of the order dated July 11, 2022 as passed by a coordinate Bench in WPA 729 of 2022 whereby and whereunder the said coordinate Bench directed the respondent no.8 to consider and dispose of the representation of the present writ petitioners as submitted on February 19, 2021 in terms of the provisions of Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964' in short).
5. At this juncture, Mr. Das draws attention of this Court to page nos.129 and 130 of the instant writ petition. It is submitted by Mr. Das that while considering the writ petitioners' representation dated February 19, 2021 as directed by the said coordinate Bench, the respondent no.10 authority practically passed an order under Section 10(3) of the said Act of 1964 without adhering to the provisions of Section 10(1) of the said Act of 1964. It is further submitted by Mr. Das that the finding with regard to the requisition and acquisition as made by the respondent no.10 is also faulty.
6. In course of hearing Mr. De, learned Additional Government Pleader submits before this Court that there is little scope to interfere with the order under challenge dated January 20, 2023 since such an order

has been passed under Section 10(1) of the said Act of 1964.

7. Mr. Pan, learned advocate appearing on behalf of the respondent nos.7 to 10, at the very outset draws attention of this Court to the prayer as made in the instant writ petition. Attention of this Court is also drawn to Section 4 of the Act II of 1948. It is submitted that from the order under challenge dated January 20, 2023 it would reveal that the plot in question has been acquired long back in connection with L.A.II/23(N) of 1964-65 and that compensation has already been awarded to the land losers and, therefore, no case has been made out for lapse of the notice under Section 4(i)(a) of the said Act II of 1948.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties it reveals to this Court that the respondent no.10 after considering the entire matter and after giving due opportunity of hearing came to a finding under cover of the order under challenge dated January 10, 2023 that the entire acquisition of the relevant plot of land was completed in connection with L.A.II/23(N) of 1964-65 for Barrackpore to Kalyani Expressway.
9. In absence of any contrary materials this Court finds no reason at all to interfere with such factual finding in a judicial review.
10. This Court also finds that due opportunity was given to the writ petitioners as well as to the officers of the

highway authorities prior to passing of such reasoned order. It thus appears to this Court that by no stretch of imagination it can be said that principle of natural justice has also not been followed. In absence of any perversity in the order under challenge, this Court thus finds no reason to interfere with the order dated January 20, 2023 as passed by the respondent no.10 authority.

11. The instant writ petition is, thus, devoid of merit and is thus dismissed. In view of the disposal of the instant writ petition CAN 1 of 2025 is also disposed of.
12. With the dismissal of the instant writ petition, the interim order as passed in connection with the instant writ petition stands hereby vacated.
13. Before parting with, this Court grants liberty to the respondent/State to take appropriate steps as per the provisions of Sections 10(2) and (3) of the West Bengal Highways Act, 1964 for removal of encroachment forthwith.
14. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)