

May 23, 2025
Sl. No.7
Court No.19
s.biswas

WPA 11125 of 2025

Sukumar Sarkar and others
vs.
The State of West Bengal and others

Mr. Ashok Banerjee, Sr. Adv.
Mr. Balai Lal Sahoo

... for the petitioners

Ms. Jhuma Chakraborty, Sr. Govt. Adv.
Ms. Munmun Tewary

... for the State

1. The affidavit of service as filed today on behalf of the writ petitioners is taken on record.
2. The writ petitioner and the respondents are represented by their learned advocates.
3. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities for not treating the land situated at Mouza-Baigachhi, J.L. No.25, L.R. Plot no.611, area about 1.72 acres of land, as acquired land with a further prayer for issuance of appropriate writ against the respondent no.5 authority for removal of structure from the said plot of land which belongs to the respondent no.3a.
4. At the time of hearing, Mr. Banerjee, learned Senior Advocate appearing on behalf of the writ petitioners at the very outset draws attention of this court to page no.150 of the instant writ petition being a copy of the Memo dated 07.03.2018 as written by the Special Land

Acquisition Officer, Nadia, the respondent no.5 herein whereby and whereunder it has been communicated to the learned advocate for the writ petitioners that the aforementioned plot was not acquired in any acquisition proceeding.

5. At this juncture, Mr. Banerjee further draws attention to page nos.153 and 161 of the instant writ petition being copies of different Memos dated 28.06.2018 and 27.07.2020. It has been submitted by Mr. Banerjee that from the aforesaid two memos it would reveal that the respondent authorities practically admitted that the aforementioned plot is of *rayati* and private land, though in a portion of such land one PWD office and one hotel in the name and style '*Pather Sathi*' are situated.
6. At this juncture, Mr. Banerjee requests this court to page nos.189 and 190 of the instant writ petition being a copy of the memo dated 16.07.2021 as issued by the respondent no.2 authority wherein and whereunder the present writ petitioners were advised to approach the jurisdictional BL&LRO that is the respondent no.7 for correction of record of rights.
7. It is submitted that pursuant to such advice, the writ petitioners approached the jurisdictional BL&LRO i.e. the respondent nos.7 authority herein who under cover of its order dated

20.01.2025 as passed in Misc. Case No.02/2025/STB came to a contrary finding that the aforementioned plot of land was acquired in full for public purpose. It is thus submitted by Mr. Banerjee that on account of such contrary stand as taken by the respondent authorities and in absence of any material to substantiate that the aforementioned plot has at all been acquired, there cannot be any difficulty to issue appropriate writ/writs as prayed for. It is thus submitted that an appropriate writ may be issued against the respondent no.3 also for removal of its structure as standing on the said plot of land.

8. It is further submitted by Mr. Banerjee, learned Senior Advocate that the writ petitioners have not received any notice of the aforementioned Misc.Case 2/2025/STB.
9. Ms. Chakraborty, learned senior government advocate appearing for the State has filed a report dated 20.05.2025 as prepared by the respondent no.5 authority. The same is taken on record.
10. In course of her submission, Ms. Chakraborty, learned advocate for the State at the very outset raised the question of maintainability of the instant writ petition. It is submitted by her that from the report as submitted today by the respondent State it would reveal that challenging the order dated 20.01.2025 as passed by the

respondent no.7 authority, an appeal was preferred by the writ petitioners before the appellate authority as per provision of Section 51A(5) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the said Act of 1955)

11. On careful consideration of the entire materials as placed before this court and after hearing the learned advocates for the contending parties, if I look to the prayer portions of the instant writ petition it does not transpire to this court that by filing the instant writ petition, the writ petitioners have not challenged any acquisition proceeding. On the contrary, the writ petitioners have prayed for issuance of appropriate writ against the respondent no.5 for removal of the illegal structure and further for not treating the aforementioned land as acquired land.

12. Though Mr. Banerjee, learned Senior Advocate in course of his argument was very vocal with regard to the alleged acquisition at the instance of the respondent authorities, but it appears to this court that the writ petitioners are practically aggrieved with the finding of the jurisdictional BL&LRO i.e. the respondent no.7 herein inasmuch as in his order dated 20.01.2025 in Misc. Case 02/2025/SDB as passed in a proceeding under Section 51A(4) of the said Act of

1955, the said respondent no.7 authority declined to revise the record of right in respect of the aforementioned plot of land.

13. At this juncture, if I look to the provisions of the West Bengal Land Reforms and Tenancy Tribunal Act of 1997, it appears to this court that the West Bengal Land Reforms Act, 1955 comes under the purview of 'Specified Act' within the meaning of Section 2(r) of the said Act of 1997.

14. It further appears to this court that Section 6 of the said Act of 1997 clearly postulates that in the event any person is aggrieved by an order made by an authority under the specified Act, the jurisdiction to challenge such order lies with the Tribunal as has been constituted under Section 4 of the said Act of 1997.

15. In view of such, this court has no hesitation to hold that the instant writ petitioners have chosen a wrong forum for ventilating their grievances. It is equally pertinent to mention herein that Section 8 of the said Act of 1997 clearly excludes the jurisdiction of the High Court under Article 226 of the Constitution of India in a case where an order is made by an authority under the specified Act.

16. From the report submitted on behalf of the State, it reveals further as against the said order of the BL&LRO, the writ petitioners have already

preferred an appeal under Section 51A(5) of the said Act of 1955. However, such contention is opposed by the learned advocate for the writ petitioners.

17. It thus appears to this court that the writ petitioners have already approached for availing of alternative and efficacious remedy.

18. In view of the discussion made hereinabove, this court thus finds no merit in the instant appeal.

19. With the aforementioned observation, WPA 11125 of 2025 is dismissed. There shall be no order as to costs.

20. Before parting with, it is made clear that since no affidavit is called for, the allegations made in the instant writ petition are deemed to have been denied.

21. It is further made clear that the dismissal of the instant writ petition would not prevent the writ petitioners to approach the appropriate forum for ventilating their grievance with the self-same cause of action, if so advised.

22. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of all necessary formalities

(Partha Sarathi Sen, J.)