

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**M.A.T. 839 of 2023
IA NO: CAN/1/2023**

**Kesharshyam Constructions (Private) Limited
Vs.
The State of West Bengal & Ors.**

For the Appellant : Mr. Suman Kr. Dutt, Senior Advocate
Mr. Sarosij Dasgupta, Advocate
Mr. Subhra Das, Advocate

For the State : Sk. Md. Galib, Sr. Govt. Advocate
Ms. Priyamvada Singh, Advocate

Heard on : 12.06.2025

Judgment on : 12.06.2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petition and directed against the judgment and order dated April 17, 2023 passed in WPA 10042 of 2013.
2. By the impugned judgment and order, learned Single Judge dismissed the writ petition.
3. Learned advocate appearing for the appellant submits that, the appellant/writ petition is in possession of the immovable property concerned. He submits that, although, only one dag number is involved.

Nonetheless, a portion of the property was used by the school which apparently was the requiring authority. He submits that, the school subsequently stated that, further expansion of the school is not required and, therefore, there was no further requirement of acquisition.

4. Learned advocate appearing for the appellant submits that, the predecessor-in-interest of the appellant challenged the notice under Section 4 of the Land Acquisition Act, 1894 which resulted in an order dated November 27, 1979 passed by the learned Single Judge. On appeal, by an order dated February 4, 1981 the Division Bench required the State to provide alternative accommodation in terms of Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorized Occupation of Land Act, 1951. He submits that, neither the predecessor-in-interest of the appellant nor the appellant received any alternative land in terms of such direction dated February 4, 1981.
5. Learned advocate appearing for the appellant submits that, possession of the land in question was not taken within 2 years from the date of issuance of the notice under Section 6 of the Act of 1894 and, therefore, the entire acquisition proceedings are bad.
6. Learned advocate appearing for the State submits that, notice under Section 4 of the Act of 1894 was issued on May 12, 1966. Possession of the property concerned was taken on May 7, 1993. He refers to the affidavit of the State affirmed before learned Single Judge and submits that, a school

is functioning in the property concerned. He submits that, the appellant claims to be the purchaser the property in question on December 16, 2008. Therefore, the appellant is at best a post vesting purchaser. Therefore, appellant is without any locus to challenge the acquisition proceedings.

7. From the records made available to Court it transpires that, the land in question was required for the public purpose of accommodating a girls school. Notice under Section 4 of the Act of 1894 was issued on May 12, 1966. Possession was taken on May 7, 1993. Possession was also made over to the requiring body. Property stood vested with the State.
8. Notice under Section 4 of the Act of 1894 was challenged by the predecessor-in-interest of the appellant by way of the writ petition which resulted in an order passed by a learned Single Judge dated November 27, 1979. On appeal, the Division Bench by an order dated February 4, 1981 directed the State respondents to provide the facility under Section 4(1) of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951 and in return, the predecessor-in-interest was directed to vacate the premises.
9. The appellant before us purchased the immovable property on December 16, 2008.
10. Learned Single Judge took into consideration the ratio of the decision reported in **(2020) 8 SCC 129 (Indore Development Authority vs.**

Manoharlal & Ors.) and found that twin requirements for lapsing of a proceeding were absent.

11. Learned Single Judge also took into account the locus of the appellant to proceed the writ petition. Learned Single Judge noted that, the conveyance is dated December 16, 2008 and the appellant before us is a purchaser subsequent to the publication of notice under Section 4 of the Act of 1894. Learned Single Judge held that, the appellant was without any right to challenge the proceeding or the notification under Section 4 of the Act of 1894. Learned Single Judge noted the authorities of the Hon'ble Supreme Court in this regard.
12. In the facts and circumstances of the present case, appellant is at best a post vesting purchaser and therefore, without any locus to challenge the proceedings under the Act of 1894.
13. We find no ground to interfere with the order impugned.
14. **MAT 839 of 2023** alongwith connected application are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

15. I agree.

(Md. Shabbar Rashidi, J.)