

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

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

**W.P.A. 10640 of 2012
M/s. Maharshi Commerce Limited
versus
The State of West Bengal & Ors.**

For the Petitioner	: Mr. Avinash Kankani, Advocate Mr. Arun Kumar Sharma, Advocate Mr. Suman Majumder, Advocate Mr. Tanvi Luhariwala, Advocate
For the State-Respondents	: Mr. Pantu Deb Roy, Ld. AGP Mr. Asish Dutta, Advocate
Heard on	: 07.03.2024, 13.03.2024, 10.04.2024, 07.11.2024
Judgment on	: 21.05.2025

Bivas Pattanayak, J. :-

1. This writ petitions has been filed by the petitioner under Article 226 of the Constitution of India seeking direction upon respondents authorities to rescind/cancel/withdraw the order dated 24th June, 2011 passed by respondent no.4, First Land Acquisition Collector, Kolkata in Misc No.2/2011 (Sl.4) to hand over possession of 4449 square feet area in the first floor of premises no.18, Rabindra Sarani, Kolkata-700001, release of rent compensation together with interest and other reliefs.

2. The fact of the petitioner's case is as follows:-

(i) By a deed of lease executed on 23rd February, 1984 the respondent no.5, Urban Development Department, Town and Country

Planning Branch, Government of West Bengal was inducted as a lessee in respect of an area measuring about 37,062 square feet at the first and second floor of premises no. 18, Rabindra Sarani, Kolkata-700 001 (*hereinafter referred to as the 'demised premises'*) for a period of 16 years commencing from 1st April, 1980 at a lease rent of Rs. 3.50 per square feet per month totalling to Rs.1,29,717/- for initial period of 8 years.

(ii) With the passage of time, Poddar Udyog Limited became the owner of the premises no. 18 Rabindra Sarani, Kolkata-700 001 including the demised premises.

(iii) Since there was breach of terms of the lease agreement by the respondent no.5, the said Poddar Udyog Limited filed a suit for eviction against the State of West Bengal being Suit No. 1 of 1994 before the Hon'ble High Court, Calcutta. A settlement was reached between the parties therein and the rent was enhanced to Rs.10 per square feet per month excluding municipal taxes and charges for the balance period.

(iv) As the lease period in respect of the demised premises was due to expire on 31st March, 1996, said Poddar Udyog Limited on the 4th January, 1996 issued a letter to the State of West Bengal requesting it to deliver peaceful and vacant possession of the demised premises on 1st April, 1996. However, the State of West Bengal *vide* its letter dated 27th February, 1996 refused to accede to the request of the Poddar Udyog Limited stating that the said premises was used for accommodation of office by the department of the government.

(v) On 14th March, 1996 State of West Bengal requisitioned the demised premises by an order bearing No. 225 under section 3(1) of the West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947 for providing office accommodation to Urban Development Department, Town and Country Planning Branch and directed to place the said premises at the disposal of Land Acquisition Collector.

(vi) The said order of the requisition was set aside by the Hon'ble High Court at Calcutta in the writ petition being no. 805 of 1996 by an order dated 24th December, 2001 and directed the State of West Bengal to quit and vacate the said premises within a period of two months and a Special officer was appointed to take symbolic possession, failing which the Special officer was directed to take lawful steps with the police for taking physical possession of the demised premises.

(vii) In the meantime, an application was filed for sanction of scheme of arrangement between Poddar Udyog Limited, Poddar Projects Limited, Hope Cardamom Estates Limited and the petitioner herein namely *Maharshi Commerce Limited* under section 391 (2), 392 and 394 of the Companies Act, 1956 (*hereinafter referred to as the 'Act of 1956'*) and the said scheme was sanctioned by the Hon'ble High Court on 10th June, 1998 with effect from 1st April, 1996. As per the said scheme '*Udyog*' means Poddar Udyog Limited, '*PPL*' means Poddar Projects Limited and '*Maharshi*' means Maharshi Commerce Limited.

In the scheme '*Poddar Court*' means the building and '*PCI*' means portion of office space in the building Poddar Court.

(viii) As per the scheme the '*PCI*' shall pursuant to section 394(2) of the Act of 1956 and without any further act or deed be transferred to and vest in and be deemed to have been transferred to and vest in '*Maharshi*' from the date of transfer. Under schedule A, B & C of the scheme an area of 9062 square feet is transferred from '*Udyog*' to '*Maharshi*' and an area of 19,036 square feet is transferred from '*Udyog*' to '*PPL*' and the balance area of 8964 square feet was retained by the '*Udyog*' which adds upto 37,062 square feet.

(ix) The State of West Bengal preferred two appeals being APO no. 43 of 2002 and APO 130 of 2002 challenging the judgment and order dated 24th December, 2001 passed by the Hon'ble Court setting aside the order of requisition and the operation of the aforesaid judgment and order was stayed *vide* order dated 20th February, 2002. Subsequent thereto both the appeals were dismissed for default by order dated 21st July, 2003 and 3rd July, 2006 respectively by the Hon'ble Division Bench. Such order of dismissal has not been challenged and, therefore, the order dated 24th December, 2001 of setting aside the order of requisition has attained finality.

(x) On 21st November, 2002, the State of West Bengal de-requisitioned the said premises excepting an area of approximately 4449 square feet on the first floor. On 27th June, 2003, the de-requisitioned portion was vacated and handed over. As such the balance area of 4449 square feet owned by the petitioner which forms

part of 9062 square feet is still under the illegal occupation of State of West Bengal. The ownership of the said area of the petitioner is not disputed by Poddar Udyog Limited and Poddar Projects Limited and they have also made a declaration to the effect that they do not have any right, title or interest over the area of 9062 square feet, which solely belongs to '*Maharshi*' (the petitioner herein).

(xi) By an advocate's letter dated 14th May, 2005 the respondent no.5 was requested to disclose under what authority the respondent no.6, Transportation, Planning and Traffic Engineering Directorate, Government of West Bengal, Transport Department is in possession of 4449 square feet area of the demised premises and further informed that there is no privity of contract between the petitioner and respondent no.6. The respondent no.5 was put on notice to make payments towards the electricity bills.

(xii) The respondent no.6 deposited rent with respondent no.4, First Land Acquisition Collector, Kolkata in lieu of rent compensation for the area illegally occupied by it. By letter dated 19th October, 2005 the petitioner was directed by respondent no.4 to meet him for payment of rent compensation with relevant documents in proof of title of the petitioner over the premises and pursuant thereto the petitioner met the Collector and submitted relevant documents in support of his title including the order dated 10th June, 1998 for the sanction of scheme.

(xiii) By letter dated 31st October, 2009 the petitioner through its learned advocate requested the Collector to release the rent amount along with interest however the amount was not released and the

petitioner filed a writ petition being WP no. 3552 (W) of 2010 and another writ petition being WP no. 3815 (W) of 2010 challenging the refusal of the respondents to de-requisition area of 4449 square feet of the premises. The said writ petition being WP no. 3552 (W) of 2010 was disposed of by the Hon'ble Court directing the Collector to dispose of the matter of release of rent by passing a reasoned order after giving an opportunity of hearing to the petitioner. The other writ petition was disposed of granting liberty to the petitioner to file a representation.

(xiv) On 14th February, 2011, the petitioner made a detailed representation and on 24th June, 2011 respondent no.4 passed the impugned order holding that the petitioner has failed to substantiate its claim as the absolute owner of the premises in question and that the petitioner is not entitled to any rent or any other amount payable to the owner of the building although the petitioner submitted all the relevant documents namely the scheme of arrangement and mutation certificate.

(xv) Being aggrieved by and dissatisfied with the aforesaid impugned order of respondent no.4, the petitioner has preferred the present writ petition.

3. The writ petition is keenly contested by the State-respondents, by filing affidavit-in-opposition, contending, *inter alia*, as follows:

(i) The premises-in-question was originally requisitioned under Act V of 1947 in the year 1996. The said order of requisition was challenged by the owner of the premises namely M/s Poddar Udyog

Limited and obtained order in their favour. The State of West Bengal preferred an appeal being APOT 90 of 2002 with GA 4474 of 2002 challenging the order passed by the Single Bench. On 16th June, 2003 the interlocutory application was disposed of with the observation that the interim order passed by this court on 20th February, 2002 is confirmed subject to condition if the government wants it can de-requisition certain portion of the requisitioned property without prejudice to the rights of all the parties.

(ii) In compliance thereof the Land and Land Reforms Department de-requisitioned the first and second floor of the building excluding the floors space area in the first-floor portion of back side i.e. south side of the building at Gate no.3 under the occupation of the Transport Department, Government of West Bengal. The floor space was restored to the owner namely M/s Poddar Udyog Limited and an area of 4449 square feet was handed over to the Transport Department on 27th June, 2003 by the survey and valuer of the office.

(iii) By letter no. PUI/ 200/2005, the Poddar Udyog Limited in response to the letter of the office being no. 64p dated 10th August, 2005 has informed that the new name of the owner, of the premises under requisition occupied by Transport Department, is M/s Maharshi Commerce Limited. Accordingly, the new owner was asked to submit documents to establish its title but the said concern failed to produce any valid documents. The amount of rent compensation in respect of 4449 square feet is a lying with the office of respondent no.4 for a period from 27th June, 2003 to 31st March, 2010 @

Rs.40,000/- per month as placed by the Transport Department totalling to Rs.32,45,336/-.

(iv) By suppressing material facts before the court that the petitioner failed to produce valid documents of title and mutation certificate filed writ petition being WP no. 3552 (W) of 2010. The said writ petition was disposed of directing the First Land Acquisition Collector, Kolkata to dispose of the matter regarding release of rent to the petitioner by passing a reasoned order. Accordingly, hearing was held in presence of representative of the petitioner but the concern again failed to produce valid documents in support of its claim as owners of the said premises in question.

(v) By a notice under memo no.87-LA dated 18th May, 2011, the First Land Acquisition Collector, Kolkata asked petitioner to produce necessary papers and documentary evidence on 7th June, 2011, however the petitioner pleaded his inability to produce any mutation certificate issued by the Kolkata municipal Corporation or any other documents except the scheme of arrangement by the High Court by order dated 10th June, 1998. Since no documents could be produced the application of the petitioner for release of rent exclusively in its favour was rejected.

(vi) It is unusual and surprising that even after coming into force of the scheme of arrangement sanctioned by the Hon'ble High Court on 10th June, 1998 the respective parties and more particularly the writ petitioner for reasons best known to it did not care to get their names mutated in the Kolkata Municipal Corporation register which is

considered as most vital and valid document to establish once claim as the lawful owner of the property.

(vii) Further the area of premises on first and second floor, excluding the space measuring more or less 4449 square feet carpet area on the first floor, were solely taken by one Sri Mrinal Nandi, General Manager of M/s Poddar Udyog Limited. Thus, it is evident that in contravention of the terms and contents of the scheme of arrangement M/s Poddar Udyog Limited was allowed to take possession of the de-requisitioned portion of 33062 square feet which is in excess of 8964 square feet area meant for it. This demonstrates purported scheme of arrangement has not been acted upon and adhered to.

(viii) An amount of Rs.45,25,336/-is still lying in the P/L Account of the First Land Acquisition Collector, Kolkata and remains undisbursed due to non-submission of valid documents of title and mutation certificate of the Kolkata Municipal Corporation in respect of the premises-in-question despite issuance of notice.

(ix) In light of the above the State-respondents sought for dismissal of the writ petition.

4. Mr. Avinash Kankani, learned advocate for the petitioner submitted that on an application filed for sanction of scheme of arrangement between Poddar Udyog Limited, Poddar Projects Limited, Hope Cardamom Estates Limited and the petitioner namely *Maharshi Commerce Limited* under section 391 (2), 392 and 394 of the Act of 1956, said scheme was sanctioned by the Hon'ble High Court on 10th June, 1998 with effect from

1st April, 1996. As per the scheme the 'PCI' (*portion of office space in the building Poddar Court*) shall pursuant to section 394(2) of the Act and without any further act or deed be transferred to and vest in and be deemed to have been transferred to and vest in 'Maharshi' from the date of transfer. Under schedule A, B & C of the scheme an area of 9062 square feet is transferred from 'Udyog' to 'Maharshi' and an area of 19,036 square feet is transferred from 'Udyog' to 'PPL' that the balance area of 8964 square feet was retained by the 'Udyog' which adds upto 37,062 square feet. On 21st November, 2002, the State of West Bengal de-requisitioned the said premises excepting an area of approximately 4449 square feet on the first floor. As such the balance area of 4449 square feet owned by the petitioner which forms part of 9062 square feet is still under the illegal occupation of State of West Bengal. The ownership of the said area by the petitioner is not disputed by Poddar Udyog Limited and Poddar Projects Limited and they have also made a declaration to the effect that they do not have any right, title or interest over the area of 9062 square feet, which solely belongs to 'Maharshi', the petitioner herein.

The respondent no.4 has not dealt in its order regarding the scheme of arrangement dated 10th June, 1998 passed by the Hon'ble High Court at Calcutta and has ignored the same which is binding in *rem*. To buttress his contention, he relied on the decision of Hon'ble Supreme Court passed in ***M/s General Radio and Appliances Co. Ltd. and Others versus M.A. Khader (Dead) by Lrs***¹.

¹ (1986) 2 SCC 656

Further the respondent no.4 has opined in the impugned order that the petitioner did not get the property mutated in its name. It is a settled proposition of law that mutation is not the proof of title. In support of his contention, he relied on the decision of Hon'ble Supreme Court passed in ***P. Kishore Kumar versus Vittal K. Patkar***² and another decision of this Court passed in ***Raj Gupta and Another versus State of West Bengal and Others***³. Be that as it may, the mutation certificate in respect of the property in question was also filed with the respondent no.4 as would be evident from the letter dated 24th March, 2011.

The State of West Bengal has failed to comply by handing over physical possession of the demised premises and is continuing in illegal occupation of the premises without any authority of law which is clear violation of Article 300-A of the Constitution of India. The respondents apart from handing over the possession of the demised premises to the petitioner forthwith are also liable to compensate the petitioner. To buttress his contention, he relied on the following decisions:-

- (i) ***B.K Ravichandra and Others versus Union of India and Others***⁴;
- (ii) ***Punalur Paper Mills Limited versus West Bengal Mineral Development and Trading Corporation Limited and Others***⁵
- (iii) ***Sunder Devi Anchalia versus Sate of W.B.***⁶

² 2023 SCC OnLine SC 1483

³ 2023 SCC OnLine Cal 4246

⁴ (2021) 14 SCC 703

⁵ (2021) 14 SCC 528

⁶ 2017 SCC OnLine Cal 9488

In light of his aforesaid submissions, he sought for appropriate orders for setting aside of the impugned order dated 24th June, 2011 passed by respondent no.4, for handing over of the physical possession of the balance area of the demised premises, to deposit the amount towards occupational charges made by respondent no.6 to respondent no.4, before the learned Registrar General, High Court Calcutta and determine the compensation payable by way of damages of the demised premises from September, 1997.

5. In reply to the contention raised on behalf of the petitioner, Mr. Pantu Deb Roy, learned Additional Government Pleader submitted that M/s Poddar Udyog informed respondent no.4 that the name of the new owner, of the premises under requisition occupied by Transport Department, is M/s Maharshi Commerce Limited. Accordingly, the new owner was asked to submit documents to establish its title but the said concern failed to produce any valid documents. Pursuant to order passed in the writ petition being WP no. 3552 (W) of 2010 directing the First Land Acquisition Collector, Kolkata to dispose of the matter regarding release of rent to the petitioner by passing a reasoned order, hearing was held in presence of representative of the petitioner but the petitioner failed to produce valid documents in support of its claim as owners of the said premises-in-question including the mutation certificate. Further in contravention of the terms and contents of the scheme of arrangement M/s Poddar Udyog Limited was allowed to take possession of the de-requisitioned portion of 33062 square feet which is in excess of 8964 square feet area meant for it, which clearly demonstrates that the purported scheme of arrangement has

not been acted upon and adhered to. Several opportunities were given to the petitioner to produce documents in support its claim of ownership but time and again it failed and ultimately it accepted its inability to produce relevant required documents. Hence, the order impugned of respondent no.4 does call for interference. In light of his aforesaid submissions, he prayed for dismissal of the writ petition.

6. Having heard the learned advocate for the respective parties following issues falls for consideration:

- (i) Whether the impugned order of respondent no.4, First Land Acquisition Officer, Kolkata dated 24th June, 2011 is proper, legal and correct or not?
- (ii) Whether the respondent no. 6 is in illegal occupation of the property in question?
- (iii) Whether the petitioner is entitled to possession of the area of 4449 square feet as per scheme of arrangement dated 10th June, 1998?
- (iv) Whether the petitioner is entitled to compensation for such illegal occupation by respondent no. 6?

ISSUE No.1: Whether the impugned order of respondent no.4, First Land Acquisition Officer, Kolkata dated 24th June, 2011 is proper, legal and correct or not?

7. Admittedly, by a deed of lease executed on 23rd February, 1984 the respondent no.5, Urban Development Department, Town & Country Planning Branch was inducted as a lessee in respect of an area measuring about 37,062 square feet at the first and second floor of demised premises for period of 16 years expiring on 31st March, 1996. On 14th March, 1996 State of West Bengal requisitioned the demised premises by an order

bearing No. 225 under section 3(1) of the West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947 for providing office accommodation to Urban development Department, Town and Country Planning Branch and directed to place the said premises at the disposal of Land Acquisition Collector. The said order of the requisition was set aside by the Hon'ble High Court at Calcutta in the writ petition being no. 805 of 1996 by order dated 24th December, 2001 and directed the State of West Bengal to quit and vacate the said premises within a period of two months and a Special officer was appointed to take symbolic possession, failing which the Special officer was directed to take lawful steps with the police for taking physical possession of the demised premises. Subsequent thereto although the demised premises was de-requisitioned but the portion of area in the first floor measuring 4449 square feet was not handed over and respondent no.6 was put into possession.

The petitioner made an application for release of rent payable in respect of area 4449 square feet before the concerned authority. Since no steps were taken, it moved a writ petition being 3552 (W) of 2010. Pursuant to the order passed in the aforesaid writ petition, the prayer of the petitioner for release of the rent payable in respect of the area of 4449 square feet in the first floor of demised premises was considered and rejected precisely on the following grounds. *Firstly*, that in contravention of the terms and contents of the scheme of arrangement M/s Poddar Udyog Limited was allowed to take possession of the de-requisitioned portion of 33062 square feet which is in excess of 8964 square feet area meant for it. This

demonstrates purported scheme of arrangement has not been acted upon and adhered to. *Secondly*, that even after coming into force of the scheme of arrangement sanctioned by the Hon'ble High Court on 10th June, 1998 the respective parties and more particularly the writ petitioner for reasons best known to it did not care to get their names mutated in the Kolkata Municipal Corporation register which is considered as most vital and valid document to establish once claim as the lawful owner of the property.

With regard to the first ground in the impugned order of taking over of excess area by Poddar Udyog Limited, it is found that the petitioner contends that the aforesaid area belongs to it under a scheme of arrangement approved by the Hon'ble Court on 10th June, 1998. *Per contra*, the State-respondent has made out a case that the said scheme has not been acted upon since Poddar Udyog Limited was allowed to take possession of excess area. It is not in dispute that a scheme of arrangement was made in Company Application no.226 of 1997. Be that as it may, the aforesaid contention of State-respondents is not tenable since Poddar Udyog Limited and Poddar Projects Limited who were part of such scheme of arrangement has admitted by way of declaration (at Page 214 & 215 of the writ petition) that as per the said scheme of arrangement the total area of 37062 has been apportioned amongst the following owners:

Poddar Udyog Limited	8964 square feet
Poddar Projects Limited	19036 square feet
Maharshi Commerce Limited	9062 square feet

It has also been declared that Poddar Udyog Limited and Poddar Projects Limited have no right, title and interest over the area 9062 square feet which solely belongs to Maharshi Commerce Limited. It is admitted by the State-respondents that by letter no. PUI/ 200/2005, the Poddar Udyog Limited in response to the letter of the office being no. 64p dated 10th August, 2005 has informed that the new name of the owner, of the premises under requisition occupied by Transport Department, is M/s Maharshi Commerce Limited. As per the scheme of arrangement in Part-III, with effect from the Transfer Date, the MULTI STEEL of PPL and PCI shall pursuant to section 394(2) of the Act and without any further act or deed be transferred to and vest in and be deemed to have been transferred to and vested in MAHARSHI for all the estate and interest of PPL/UDYOG therein, subject however to all charges, liens, lispendens, mortgages and encumbrances, if any affecting the same or any part thereof except plant and machinery of MULTI STEEL costing Rs. 75,53,949/- which will vest and be transferred to MAHARSHI w.e.f. 1st April, 1998.

This Court finds substance in the submissions of learned advocate for the petitioner relying on *General Radio and Appliances Co. Ltd (supra)* that by an order sanctioning such scheme of arrangement under Section 391 and 394 of Act of 1956 right, title and interest and liabilities of the transferor company are transferred and vested in the transferee company and the interest, rights of the transferor company in all its properties including leasehold interest and tenancy rights are transferred and vested in the transferee company. Bearing in mind the scheme of arrangement and the declaration made by the other two owners, there cannot be any doubt that

the area of 4449 square feet in the first floor of the premises in question belongs to the petitioner and it cannot be said that the same is not acted upon.

With regard to the second ground in the impugned order observing that mutation certificate is a vital and valid documents to establish one's claim as a lawful owner, it is relevant to note that revenue records are not document of title. Mutation in revenue records neither creates title nor establishes title nor does it have any presumptive value on title. All it does is entitle the person in whose favour mutation is done to pay the land revenue in question. This Court finds substance in argument pressed on behalf of the petitioner relying on *P. Kishore Kumar (supra)* and *Raj Gupta (supra)*. Be that as it may, the records reveal that the petitioner submitted the mutation certificate before the authority concerned. Thus the order of respondent no.4, First Land Acquisition Officer, Kolkata that the petitioner is not entitled to rent and/or any other amount payable to it as owner is short of legality and is liable to be set aside.

ISSUE No.2: Whether the respondent no. 6 is in illegal occupation of the property in question?

8. By an advocate's letter dated 14th May, 2005 (Annexure P5 at Page 164) the respondent no.5 was requested to disclose under what authority the respondent no.6 is in possession of 4449 square feet area of the demised premises and further informed that there is no privity of contract between the petitioner and respondent no.6. The State-respondents have not produced any single document showing any contract between respondent no.6 and the petitioner. Thus, there cannot be any quarrel that

there exists no privity of contract between respondent no.6 and the petitioner. As such the respondent no.6 is in illegal occupation of the premises-in-question.

ISSUE No.3: Whether the petitioner is entitled to possession of the area of 4449 square feet as per scheme of arrangement dated 10th June, 1998?

9. As in the foregoing paragraph it is found that the possession of respondent no.6 is illegal, hence the petitioner who as per the scheme of arrangement and declaration of other two owners is the owner of 9062 square feet in the premises-in-question, is entitled to delivery of possession of an area of 4449 square feet.

In an earlier writ petition being WP 805 of 1996 challenging the order of requisition dated 14th March, 1996 in respect of the demised premises, the Hon'ble Court passed the following orders on 24th December 2001:

"Therefore, I set aside the order of requisition dated 14th March 1996. Accordingly, I appoint Mr. Ramesh Sharma of Bar Library Club, practicing Advocate as a Special Officer who shall take symbolic possession forthwith. He shall be paid initial remuneration assessed at 500 Gms by the petitioner at the first instance and thereafter the same be reimbursed by the respondents. I grant time for a period of two months to vacate and quit the said property, failing which the Special Officer shall take all lawful steps with the police for taking physical possession of the said property."

It is contended by the petitioner that the State of West Bengal preferred two appeals being APO no. 43 of 2002 and APO 130 of 2002 challenging the judgment and order dated 24th December, 2001 passed by the Hon'ble Court seeking aside the order of requisition and the operation of the aforesaid judgment and order was stayed vide order dated 20th February, 2002. Subsequent thereto both the appeals were dismissed for default by

order dated 21st July, 2003 and 3rd July, 2006 respectively by the Hon'ble Division Bench. The aforesaid contention of the petitioner is not specifically denied or disputed by the respondents. The order dated 24th December, 2001 as aforementioned has attained finality. Admittedly subsequent thereto, on 21st November, 2002, the State of West Bengal de-requisitioned the said premises excepting an area of approximately 4449 square feet on the first floor. On 27th June, 2003, the de-requisitioned portion was vacated and handed over. Thus, the balance area of 4449 requires to be handed over to the petitioner.

ISSUE No.4: Whether the petitioner is entitled to compensation for such illegal occupation by respondent no. 6?

10. It is already found that respondent no.6 is in illegal occupation of the premises in question. Bearing in mind the observation of Hon'ble Supreme Court in *B.K Ravichandra (supra)*, *Punalur Paper Mills Limited (supra)* and *Sunder Devi Anchalia (supra)* of this Court, this Court is of the opinion that the petitioner is entitled to compensation for such illegal occupation of respondent no.6.

11. By letter dated 14th May, 2024, the respondent no.4, First Land Acquisition Collector, Kolkata through the learned Additional Government Pleader informed that an amount of Rs. 94,85,336/- is lying in its PL account as rent compensation in connection with the premises in question. In addition to that, an amount of Rs.4,80,000/- has also been received from the requiring body by way of three cheques which is yet to be credited to its PL account. Since it has been held that premises in question belongs to the petitioner, the petitioner is entitled to receive the aforesaid

amount together with accrued interest as well as the amounts received as rent compensation by respondent no.4, First Land Acquisition Collector, Kolkata subsequent thereto.

12. Accordingly, this writ petition being **W.P.A. 10640 of 2012** is disposed of as follows:

- (i) The impugned order dated 24th June 2011 of respondent no.4, First Land Acquisition Collector, Kolkata passed in Misc No.2/2011 (Sl.4) is hereby set aside.
- (ii) Respondent nos.4 and 6 are directed to quit, vacate and hand over vacant peaceful possession of the said premises in respect of area 4449 in the first floor to the petitioner within a period of two months from date of this order. Mr. Ratul Das, learned Advocate, Bar Library Club is appointed as a Special officer who shall take symbolic possession of the premises in question forthwith. In the event respondent nos.4 and 6 fail to quit, vacate and hand over vacant peaceful possession within the aforesaid stipulated period, the Special officer shall take lawful steps with the police for taking physical possession of the premises-in-question and hand it over to the petitioner. The initial remuneration of the Special Officer is fixed at 2500 Gms which is to be paid by the petitioner at the first instance and thereafter the same would be reimbursed by State-respondents.
- (iii) Respondent no.4, First Land Acquisition Collector, Kolkata is directed to deposit the amount mentioned in foregoing paragraph no.11 as well as subsequent amount received towards rent compensation from respondent no.6 before the learned Registrar

General of this Court together with accrued interest within a period of two weeks from date of this order. Upon receipt of such deposit, learned Registrar General shall disburse the amount in favour of the petitioner upon satisfaction of its identity.

(iv) The petitioner is granted liberty to submit a comprehensive application to respondent no.2, Principal Secretary, Government of West Bengal, Department of Land and Land Reforms seeking compensation for such period of illegal occupation of respondent no.6. Upon submission of such application, respondent no.2 shall appoint an arbitrator within a period of four weeks from date of this order and refer the claim of the petitioner to the arbitrator. Thereafter the arbitrator shall proceed to pronounce such award towards compensation as expeditiously as possible. The amount directed to be received by the petitioner under clause (iii) shall be adjusted against the total award of compensation of the arbitrator.

13. All connected applications, if any, stand disposed of.

14. Interim orders, if any, stand vacated.

15. 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.)