

Item no. 11.

ASR/Sws.M Ct. no. 24.
11.07.2025

WPA 15262 of 2015

**Fighters Loding Syndicate Pvt. Ltd.
Vs.
State of West Bengal & Ors.**

**Mr. Tapas Kumar Sinha
Mr. Joyjit Roy Choudhury**

.....For the petitioner

**Mr. Pankaj Halder
Mr. Subnendu Bhattacharya
Mr., Sanatar Panja
Mr. Tapas Manna**

...For the respondent

**Mr. Ashok Kumar Banerjee
Mr. Styajit Talukder
Mr. Arindam Chattarjee**

....For the KMDA

**Mr. Jaydeep Kar
Mr. Sirsanya Bandhopadhyay
Mr. Chandi Charan De
Ms. Sonal Sinha
Mr. Anirban Sarkar
Ms. Shabnam Farouqi**

.....For the State

Writ petitioner challenges order of vesting passed in U.L. case no. 6(1)/1991/v 4 of 1976 by the competent authority. He also challenged a notice dated June 4, 2015 passed by the competent authority, ULC, Kolkata under Section 10(5) of the Urban Land (ceiling regulation Act), 1976. (shall be referred as “said Act, 1976” hereinafter).

Brief fact of the petitioner is that he was inducted as a tenant in respect of premise no. 21 Chetla Central Road, Calcutta-27 through an agreement between the petitioner and one Paramananda Bose on April 16, 1982. Since then the petitioner was possessing the said premises.

During such possession the said Paramananda Bose intends to sell out the premises to the petitioner with market value of Rs. 50,000/- per Cottah. However, such agreement was not materialized and subsequently a suit was filed by the petitioner which was ended to execution of a sale deed in favour of the petitioner through Additional Sub Registrar, Alipore. By such the entire property was transferred in the name of the petitioner vide a registered deed of sale dated October 1st, 2003 vide deed no. 2908/2003.

It is the contention of the petitioner that while he was in possession, suddenly the competent authority issued the impugned notice on 4th June, 2015 directing the petitioner that as he has purchased the premises after promulgation of the said Act, 197 the said transferred of land is unlawful under Section 5 (3) of the said Act, 1976.

Petitioner also challenged a notice dated 19.06.2015 issued by Valuation Officer, KIT being the custodian of the vested land.

To understand the issue involved in the instant writ, the factum of vesting required to demonstrate.

Paramananda Bose, Santosh Bose and Sudhir Bose are the co-owner brothers of property being 21, Chetla Central Road, 14, Peary Mohan Roy Road and 12, Peary Mohan Roy Road. Paramananda Bose submitted statement return under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 with the authority concerned. The competent authority on the basis of such statement has prepared a final statement under Sub-section 2 of Section 6 of the said Act, 1976. Against the said statement objections were called for and thereby Paramananda Bose has filed objection under Section 8(3) of the said Act, 1976. The competent authority has heard the objections under section 8(4) of the said Act, 1976 and passed a detailed order. By such order, the competent authority has held that an area of 2524.60 square metres is excess to the ceiling limit of Paramananda Bose in respect of the said premises, 21, Chetla Central Road.

Against such order Paramananda Bose went up to this Court by filing a writ petition. Finally, the Writ Court has directed the said Paramananda Bose to approach the appellate forum. Accordingly, the said Paramananda Bose preferred an appeal under Section 33 of the Urban Land (Ceiling and Regulation) Act,

1976. The appellate authority has modified the order of the competent authority and has ordered that:

*“that the appeal is allowed on consideration of merit. The Competent Authority, Calcutta, is directed to prepare final statement on the basis of 651.00 square metres of excess vacant land at premises at 1, Dwarika Nath Ghosh Land, 273.5 square metres of excess vacant land at premises at 66, Jainuddin Mistry Lane, **802, 96 square metres of excess vacant land at premises 21, Chetla Central Road** and 343.41 square metres of excess vacant land at premises at 3/1A. Mafar Kundu Road and issue fresh 10(1) notification accordingly and take subsequent steps towards vesting of excess vacant lands in accordance with law.”*

The respondent authority has proceeded to issue notice under Section 9 of the said Act 1976 which was initially challenged by Paramananda Bose by filing a writ petition being WP No. 1504 of 1999. The said writ petition was dismissed for default by a Co-ordinate Bench of this Court dated September 21, 2003. Thereafter, the respondent authority had issued the impugned memo upon the petitioner under Section 10(5) of the said Act, 1976 directing the petitioner to deliver the possession of such excess land held by him immediately. In response to such notice dated June 4, 2015, the Valuation Officer, KIT being the custodian of

vested land has also directed the petitioner to deliver the possession of the vacant land.

Both the notices are impugned herein.

During the course of argument it has been categorically and fairly argued on behalf of the respondent authority that the impugned notice dated June 4, 2015 under Section 10"(5) of the said Act, 1956 was issued upon the petitioner on misconception of law. They actually have to proceed under Sub-section 1 of Section 10 and thereafter Sub-section 3 and Section 10 of the said Act, 1976. Thereafter, they can follow or pass the said notice. By such, they intend to withdraw the said notice.

During the course of argument a memo was placed by the competent authority dated November 13, 2024 with intention to withdraw the said notice being incorrect one.

Having heard the learned counsels for the parties and having considered the material on record, the impugned notice has admitted to be improper in the eye of law and is hereby set aside.

The setting aside of the impugned notice cannot be disposed of the entire litigation herein. The competent authority has challenged the maintainability of the writ petition filed by the petitioner containing, *inter alia*, that the petitioner being a purchaser of the land which is excess to the ceiling limit of returnee

Paramananda Bose and transfer after the date of promulgation of the said Act, 1976, is bar under Section 5(3) of the said Act, 1976.

Learned counsel for the petitioner submits that the fact suggests that he was in possession over the land as a tenant. Thereafter, the premises was transferred to the petitioner by dint of a registered deed of sale. Thus, he being a person holding the land has some legal right to challenge the notice and the procedure of vesting initiated by the competent authority.

Considering the entire aspect it appears that the petitioner has challenged the impugned notice dated 04.06.2015, which was admitted by the respondent authority to be a notice issued on the misconception of law, thus the impugned notice dated 04.06.2015 is hereby set aside.

The respondent authority is directed to initiate the proceeding according to the direction of the appellate authority since the stage of Section 10 of Urban Land (Ceiling & Regulation) Act, 1976; on that score I make it clear that the issue regarding the right of the petitioner in respect of his possession over the said excess land is to be determined by the authority after giving him a reasonable opportunity of being heard. The authority concerned shall conclude all exercise within eight weeks from the date of communication of this order.

It is clarified that this Court has not entered into the merits of right of the petitioner, it is kept open for the competent authority to decide the matter according to law without being influenced by any observation of this Court.

Accordingly, WPA 15262 of 2015 is disposed of.

[Subhendu Samanta, J]