

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

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 18147 of 2023

Radharani Sardar & Ors.

Vs.

The State of West Bengal & Ors.

For the petitioners : Mr. Tanmoy Sett,
Ms. Trishna Sarkar,
Mr. Swakshar Kumar Mondal

For the State : Mr. Vimal Kumar Shahi, Ld. AGP,
Mrs. Tanuja Basak

Heard on : 05.08.2025

Judgement on : 05.08.2025

PARTHA SARATHI SEN, J.:

1. The parties to the instant writ petition are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities, more specifically, against the respondent no. 4/authority to determine the compensation as payable to the writ petitioners in terms of Act XXX of 2013.

3. At the time of hearing, Mr. Sett, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to Page Nos. 17 to 19 of the instant writ petition, being copies of LR&ROR and RS&ROR as stood in the name of one Dhirendra Nath Sardar who died on 03.04.2008 leaving behind the writ petitioners as his legal heirs within the meaning of Hindu Succession Act.
4. Drawing attention to Page Nos. 25 to 27 of the instant writ petition, Mr. Sett submits before this Court that in an earlier round of litigation, a co-ordinate Bench of this Court by its order dated 14.03.2022 as passed in WPA 1432 of 2022 directed the respondent no. 2 therein to consider the representation of the writ petitioners in accordance with law and to dispose of the same by passing a reasoned order within a stipulated period after giving due opportunity of hearing to the writ petitioners.
5. It is submitted further by Mr. Sett that from Page Nos. 31 to 33 of the instant writ petition, it would reveal that on 03.01.2023, the writ petitioner no. 2 submitted a comprehensive representation with the respondent no. 2/authority which came to be disposed of by the respondent no. 4/authority by passing a reasoned order dated 10.02.2023, a copy of which has been annexed at Page Nos. 38 to 46 of the instant writ petition.
6. In course of hearing, Mr. Sett draws attention of this Court to Page Nos. 40, 45 and 46 of the instant writ petition being different portions of the said order dated 10.02.2023. It is submitted that from Page No. 40 of the instant writ petition, it would reveal that the respondent no. 2/authority came to a finding that two plots of land belonging to the Dhirendra Nath Sardar was

requisitioned under Section 3(1) of the Act II of 1948 and those two plots of land stood vested by publication of notice under Section 4(1a) of Act II of 1948 and after obtaining possession of the said two plots of land, the said two plots of land were handed over to the requiring body subsequently, a notice under Section 9(3B) of Act – I of 1894 was issued, however, no award was declared in the name of the writ petitioners.

7. It is further submitted from Page Nos. 45 and 46 of instant writ petition, it would reveal that the respondent no. 2/authority came to a finding that the present writ petitioners will be paid compensation. It is further submitted by Mr. Sett that from Page No. 19 of the report in the form of affidavit as submitted on behalf of the respondent no. 4/authority, it would reveal that the present writ petitioners were awarded a paltry sum towards compensation. It is further submitted by Mr. Sett that from Page No. 11 of the said report, it would reveal that the respondent no. 4/authority had made a venture to justify its action by saying that since the acquisition took place in the year 1976-77, the award would be prepared under Section 11 of Act I of 1894 in the light of an order of the Hon'ble Supreme Court of India as per provision of Section 24(1)(b) of Act XXX of 2013.
8. It is submitted further that being aggrieved with such quantum, the writ petitioners again approached the respondent no. 2/authority by submitting a representation dated 13.06.2013, a copy of such has been annexed at Page Nos. 47 to 54, however, the same was not considered favourably. It is further submitted by Mr. Sett that since no plausible explanation has been given on behalf of the respondent/State with regard to the calculation of paltry

amount of compensation, appropriate relief/reliefs may be granted to the writ petitioners in terms of the prayers of the instant writ petition keeping in mind the provision of Section 24 of Act XXX of 2013.

9. Per contra, Mr. Shahi, learned advocate appearing on behalf of the respondent/State and its instrumentalities draws attention of this Court to Page Nos. 4 of the report as submitted by the respondent no. 4/authority. It is submitted by Mr. Shahi that in paragraph no. 10, it has been specifically averred that the writ petitioners have not provided the particulars of their bank account details and the writ petitioners have shown their least interest to withdraw the said amount.
10. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that for effective adjudication of the instant *lis*, the provision of Section 24 of Act XXX of 2013 are required to be looked into and the same is quoted hereinbelow in verbatim:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases. - (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),-

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or (b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

11. It further appears that Section 11A of Act – I of 1894 is also required to be looked into and the same is under :-

“11A. Period shall be within which an award shall be made. – The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.

Explanation – In computing the period of two years referred to in this section, the period during which any action or proceeding

to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.”

12. Keeping in mind the aforementioned provisions of law, if I look to the factual aspects of this case, it appears to this Court that it is the specific case of the respondents/authorities as reveals from Page No. 40 of the instant writ petition that the land(s) of the predecessor-in-interest was requisitioned under Section 3(1) under Act II of 1948 and subsequent to the publication of a notification under Section 4(1a) of the self-same Act II of 1948, the said plots of land were vested with the State which was given to the requiring body for utilization, however, no award has been passed in the name of the writ petitioners.
13. It further appears to this Court that in Page No. 11 of the report as submitted on behalf of the respondent no. 4/authority, it reveals that it is the specific finding of the respondents/authorities that the award was prepared under Section 11 of the Act I of 1894 after issuing a notice under Section 9(3b).
14. Admittedly, such award was determined on 10.02.2023, however no compensation has been disbursed till 18.08.2023 as would be evident from paragraph 9 of the report of the respondent no.4. Consequently the entire acquisition proceedings lapsed under Section 11A of the Act – I of 1894 since the validity of Act – II of 1984 and/or Land Acquisition (Amendment) Act, 1984 expired.
15. At this juncture, if I look to the provisions of Act XXX of 2013, it reveals that Act XXX of 2013 was brought into effect on 01.01.2014.

16. On perusal of the provisions under Section 24(2) of the said Act of 2013, it reveals that it is the legislative mandate that notwithstanding anything contained in subsection (1) of the self-same section where an award under Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and in that event, the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act. Admittedly, in the instant case, the award under Section 11 was not made five years prior to commencement of the Act and, therefore, the provisions of Section 24 (2) of the said Act of 2013 has got no manner of application.

17. At this juncture, I propose to look to a judgment dated 20.05.2025 as passed by me in WPA 17757 of 2024 (***Sadhan Narayan Kundu and Others Vs. The State of West Bengal and Others***) wherein this Court held thus:

“21. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties it appears to this Court that from page no.23 of the instant writ petition it would reveal that in respect of the writ petitioners’ land, particulars of which has been mentioned at paragraph no.2 of the instant writ petition, a notice under Section 4(1a) of Act II of 1948 was published in the official gazette on July 26, 1991. As rightly argued by Mr. Pan that as soon as such notice was published in the official gazette, the requisitioned land of the writ petitioners’ stood vested absolutely with the State under Section 4(2) of Act II of 1948.

22. It is undisputed that on account of such acquisition, the writ petitioners were not disbursed with any compensation. This Court has noticed that by virtue of the Amendment Act of 1994 the validity of the Act II of 1948 was extended till 31.03.1994. However, by the self same Amendment Act, on and from 01.04.1994 the power of requisition under 2025:CHC-AS:900 15 Section 3 of the Act II of 1948 was taken away. On perusal of the amended provision of Section 7A of Act II of 1948 it reveals that collector was empowered to make an award under Section 7(2) of Act II of 1948 within the period of three years from the date of publication of the notice under Section 4(1a) and in the event such award is not made within the said period, the said notice under Section 4(1a) would lapse. The proviso of Section 7A of Act II of 1948 further mandates that in the event the aforementioned notice have been published more than two years before the commencement of the Amendment Act of 1994, the award shall have to be made within a period of one year from the date of commencement of the said Amendment Act.

23. On perusal of the entire materials as placed before this Court, this Court has got no iota of doubt that on account of non-publication of the award within the stipulated period as mentioned in Section 7A of Act II of 1948 the notice as published under Section 4(1a) of Act II of 1948 lapsed in terms of the provision of Section 7A of the said Act of 1948. Consequently, on account of such lapse of notice the vesting under Section 4(2) of Act II of 1948 got vitiated.

24. At this juncture if I look to the provisions of Section 9(3A) and (3B) of Act I of 1894 it appears that it is the legislative intent that in respect of land requisitioned and acquisitioned under Act II of 1948, the Collector shall serve notice to all such persons known or believed to be interested in any such land for the purpose of determination of the award under Section 11 of Act I of 1894. The first proviso of Section 9 (3B) of Act I of 2025:CHC-AS:900 16 1894 also postulates that the date of publication of notice under Section 4 (1a) of Act II of 1948

would be the date of reference for the purpose of determining the value of such land under Act I of 1894. As noticed earlier that since the notice as has been published under Section 4(1a) of Act II of 1948 lapsed, the collector cannot determine the value of the acquisitioned and requisitioned land under Act II of 1948 on the basis of the date of publication of such lapsed notice. Undoubtedly, no award has also been made under Section 11 of Act I of 1894 in respect of requisitioned and acquisitioned land pursuant to the notice as has been annexed at page no.23 of the instant writ petition since no notice under Section 9(3B) the Act I of 1894 was served upon the writ petitioners.”

18. If the factual aspects as involved in the instant writ petition is compared with the factual scenerio as involved in the ***Sadhan Narayan Kundu and Others (supra)***, it appears to this Court that the factual circumstances as involved in the case of ***Sadhan Narayan Kundu and Others (supra)*** is more or less identical with the facts and circumstances as involved in the instant writ petition.
19. It appears to this Court that no material also could be placed before this Court that even during the lifetime of Act II of 1948 any award was made in favour of the writ petitioners and, therefore, non-publication of the award within the stipulated period as mentioned in Section 7A of Act II of 1948, the notice as published under Section 4(1a) of Act II of 1948 lapsed. Consequently the entire requisition and acquisition proceeding stood lapsed.
20. In view of such, the Collector cannot determine the value of the acquisitioned or requisitioned land under Act II of 1948 on the basis of the date of publication of such lapsed notice. Undoubtedly, no award has been

made under Section 11 of Act I of 1894 in respect of the requisitioned and acquisitioned land pursuant to the notice as claimed to have been served.

21. In view of the discussion made hereinabove, the assessment of compensation as made by the respondent no. 4/authority and as has been communicated to the writ petitioners under cover of memo dated 23.03.2023 is hereby quashed.

22. Consequently the instant writ petition succeeds.

23. This Court thus while disposing the instant writ petition directs the respondents/authorities, more specifically, the respondent no. 3/authority to take appropriate steps for initiating proceeding for acquisition of land of the present writ petitioners in terms of the provisions of Act XXX of 2013 and to complete such proceeding within 120 working days from the date of communication of this judgment and to pay just compensation to the writ petitioners within four weeks, thereafter.

24. With the aforementioned observations, the instant writ petition being **WPA 18147 of 2023** is disposed of.

25. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)