

WPA 18986 of 2022

**Prasanta Ghose
Vs.
The State of West Bengal & Ors.**

Mr. Soumyajit Bhatta
Mr. Sanjib Seth
Mr. Prasenjit De

....for the petitioner

Mr. Satyajit Talukdar
Mr. Arindam Chatterjee

....for the KMDA

Mr. Sandipan Banerjee
Mr. Santanu Chatterjee

....for the Corporation

The petitioner approached this Court with allegation that Howrah Municipal Corporation has acquired some portion of land of the petitioner during construction of cement concrete road over the portion of premises No. 19, Kedarnath Mukherjee Lane under Howrah Municipal Corporation, ward no. 23.

It is the allegation of the petitioner that the property owned by the petitioner since his predecessor was forcibly taken away by the Howrah Municipal Corporation without providing any compensation. During the course of hearing of this matter, a report was placed by the Howrah Municipal Corporation which discloses that during inspection there found some portion of the premises No. 19 of Kedarnath Mukherjee Lane was used for widening a cement concrete road with drain as the portion of the road was very narrow. It is the further report of the Assistant Engineer (Roads), Howrah Municipal Corporation that the portion of the land in question of the petitioner was acquired by the then H.I.T. personnel merged with KMD authority previously. The inspection report also reveals that it was not possible

how much portion of the property was encroached by the Municipal Corporation during construction of the cement concrete road of said Kedarnath Mukherjee Lane.

Kolkata Metropolitan Development Authority (in short K.M.D.A.) has also placed a report, which discloses that the petitioner approached to the authority with a RTI application mentioning the LR Plot numbers namely, 273, 274 and 275 of Mouza – Bantra, Howrah. The authority had written a letter to the concerned BL & LRO asking them to provide the corresponding RS Plot Nos.

Having heard the matter and also perused the report it is quite dark before this Court that whether the land of the petitioner was actually acquired or not.

The State-respondents has appeared before this Court and wished not to use an affidavit. In that situation it is crystal clear that the land of the petitioner was used by the concerned respondent-authorities without initiating any process of acquisition according to law.

On this aspect I think it necessary to relegate the matter before the Collector, District Magistrate, Howrah being the respondent No. 7 of the instant writ petition to decide the issue whether any portion of the petitioner's land comprising in premises No. 19, Kedarnath Mukherjee Lane under Howrah Municipal Corporation, Ward No. 23 has ever acquired by the

State or any authority or Howrah Municipal Corporation in any point of time.

The petitioner is directed to approach the respondent No. 7 for his desired relief as directed above by making a fresh representation to the Collector, District Magistrate, Howrah.

On such representation, the respondent No. 7 shall dispose of the same according to law after giving a reasonable opportunity of being heard to all concerned within six weeks from the date of making such representation.

I make it clear that if it appears to the District Magistrate that the land of the petitioner was forcibly obtained by any of the authority as mentioned hereinabove without any process of acquisition, the DM/Collector concerned shall initiate the proceeding immediately so that the petitioner may get compensation according to the present law of the land.

I make it clear that this Court has not entered into the merit of this matter.

The respondent No. 7 shall dispose of the representation according to law without being influence by any observations made by this Court.

Accordingly, WPA 18986 of 2022 stands disposed of.

(Subhendu Samanta, J.)