

IN THE HIGH COURT AT CALCUTTA

Special Civil Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CPAN 1269 of 2024

With

IA No.: CAN 1 of 2024

In

FMAT 2354 of 1991

With

IA NO.: CAN 1 of 2024

Neelachal Abasan Co-operative Society Ltd. & Anr.

Vs.

**Sri Sumit Gupta, the District Magistrate and the
Land Acquisition Collector, South 24 Parganas & Ors.**

With

CPAN 1264 of 2024

With

IA NO.: CAN 1 of 2024

In

FMAT 2355 of 1991

With

IA NO.: CAN 1 of 2024

Neelachal Abasan Co-operative Society Ltd. & Anr.

Vs.

**Sri Sumit Gupta, the District Magistrate and the
Land Acquisition Collector, South 24 Parganas & Ors.**

With

CPAN 1268 of 2024

With

IA NO.: CAN 1 of 2024

In

FMAT 2356 of 1991

With

IA NO.: CAN 1 of 2024

Neelachal Abasan Co-operative Society Ltd. & Anr.

Vs.

**Sri Sumit Gupta, the District Magistrate and the
Land Acquisition Collector, South 24 Parganas & Ors.**

For the Appellants-applicants.	: Mr. Laxmi Kumar Gupta, Sr. Adv. Mr. Amit Kumar Pan, Adv. Mr. Debasish Banerjee, Adv. Mr. Subrata Saha, Adv. Mr. Vijay Verma, Adv.
For the alleged Contemnor Nos. 1, 2 and 4	: Mr. Anirban Roy, Ld. GP Mr. Nilotpal Chatterjee, Adv.
For the Respondent Nos. 2 and 3-KMDA	: Mr. Sirsanya Bandyopadhyay, Adv. Mr. Satyajit Talukdar, Adv. Mr. Arindam Chatterjee, Adv.
For addition of party	: Ms. Ananya Mondal, Adv. Mr. Ashim Kumar Routh, Adv. Mr. Subhayan Barik, Adv.
For Charan Kumar Chabria-. Writ petitioner	: Mr. Naman Choudhury, Adv. Mr. Subrojoyoti Mukherjee, Adv. Mr. Pranav Sharma, Adv.
Hearing Concluded on	: January 16, 2025
Judgement on	: February 12, 2025

DEBANGSU BASAK, J.:-

1. Three appeals being FMAT 2354 of 1991, FMAT 2355 of 1991 and FMAT 2356 of 1991 as also the contempt petitions filed in respect of the orders passed in such three appeals being CPAN 1264 of 2024 filed in FMAT 2355 of 1991, CPAN 1268 of 2024 filed in FMAT 2356 of 2021 and CPAN 1269 of 2024 filed in FMAT 2354 of 1991, have been heard analogously as they involve similar issues and are largely, between the same parties.

2. All the three appeals and the three contempt petitions have been filed by the same legal entity namely, Neelachal Abasan Co-

operative Society Ltd. & Anr. (for the sake of convenience, hereinafter referred to as Neelachal).

3. Neelachal has assailed an order dated July 12, 1991 passed in six writ petitions. By the impugned order, learned Single Judge has made the Rule issued in those writ petitions absolute. Learned Single Judge has held that the acquisition of the plots challenged in the writ petitions were bad.

4. Neelachal has contended that, State Government issued a notice under Section 4(1)(a) of the West Bengal Land (Requisition and Acquisition) Act, 1948 published in the Calcutta Gazette on November 29, 1983 for acquiring land for providing proper facilities for irrigation and drainage namely for protection along the left bank of river Jaldhaka. Neelachal has contended that, such notice included plot No. 2426.

5. Neelachal has contended that, plot No. 2426 JL No. 12 Mouza Kasba was requisitioned under the Act II of 1948. Kolkata Metropolitan Development Authority (KMDA) had taken possession of the land so requisitioned. Subsequently, acquisition proceedings had been initiated and possession of the land taken. Acquisition of the land in question had stood completed without the same being challenged.

6. Neelachal has contended that, State Government acquired a plot of land and ultimately made over the same to KMDA. State Government had thereafter sold various plots of land to Neelachal by a registered deed of conveyance. Attention of the Court has been drawn to such registered deed of conveyance.

7. Nilahcal has contended that, acquisition proceedings in respect of plot No. 2426 had attained finality. The challenge by the writ petitioners to the requisition proceedings with acquisition having come into being was without any consequence.

8. Nilahcal had contended that, plot No. 2426 is in the middle of the plots which were sold by the State Government to Neelachal by virtue of the registered deed of sale dated December 29, 1990. KMDA had agreed to hand over plot No. 2426 in exchange for the plots of land which were given to KMDA by the State of West Bengal.

9. Neelachal has contended that, the writ petitioner proceeded on the basis of requisition and did not challenge the award passed in the acquisition proceedings. Neelachal has pointed out that, the writ petitioner did not challenge the deed of sale executed by the State of West Bengal in favour of Neelachal.

10. Learned advocate appearing for the State has contended that, the acquisition or requisition of plot No. 2426 cannot be said

for public purpose. He has pointed out that State did not prefer any appeal against the impugned order.

11. Learned advocate appearing for the State has contended that, Neelachal has no locus in respect of plot No. 2426. Such plot had never been allotted to Neelachal. According to him, the contempt proceedings are in abuse of the process. He has pointed out that possession of plot No. 2426 had been made over pursuant to the order of the court. Appellant was present at the time of making over of such possession.

12. Learned advocate appearing for KMDA has contended that, there was no agreement between KMDA and Neelachal in the manner as claimed by Neelachal. He has pointed out that pursuant to the orders passed by High Court directing making over possession of plot No. 2426 to the owners, KMDA made over such possession to the owners. He has pointed out that plot No. 2426 is not in the schedule of the registered sale deed. Moreover, according to him, no violation of the orders of status quo has taken place at the behest of his client.

13. Appellants in the three appeals have assailed the impugned judgment and order dated July 12, 1991 passed in three writ petitions being CO 5563 (W) of 1989, CO 5564 (W) of 1989 and CO 5565 (W) of 1989. These three writ petitions had been filed by

Ranjit Kumar Dutta, Ajit Kumar Dutta, Haranath Dutta, challenging the acquisition of plots of land belonging to such writ petitioners.

14. Learned Single Judge in the impugned judgment and order dated July 12, 1991 has held that, Act II of 1948 does not allow acquisition of land for a stated public purpose and then, upon such land not been required for such public purpose to make over such land to the appellant herein for the purpose of constructing residential complex. By an order dated November 9, 1991 passed in three appeals, the parties to the appeal were directed to maintain status quo as on the date of the order.

15. A writ petition being WP No. 7624 (W) of 2015 had been filed by persons claiming to be transferees of the original writ petitioners in the writ petitions involved in the three appeals. By way of such writ petition being WP No. 7624 (W) of 2015, the transferees sought implementation of the order dated July 12, 1991 passed by the learned Single Judge.

16. By an order dated July 30, 2019 WP No. 7624 No. (W) of 2015 was disposed of by directing possession of the concerned plot to be made over to such transferees.

17. Neelachal before us is a housing co-operative society. State Government has executed a registered deed of sale dated

December 29, 1990 in favour of Neelachal. Plot No. 2426 does not form part of such deed of sale.

18. Apart from the claim of Neelachal that, there was an understanding between KMDA and Neelachal that, plot No. 2426 would be sold to Neelachal, after acquiring the same, there is no document to such effect nor any other evidence to corroborate such claim.

19. Neelachal has failed to prove its right, title and interest in respect of plot No. 2426. In absence of Neelachal establishing its claim in respect of plot No. 2426 by cogent evidence, no credence can be attributed to such claim.

20. We are unable to accept the claim of Neelachal that there has been an understanding between KMDA and Neelachal with regard to plot No. 2426 particularly in view of the fact that KMDA has categorically denied such arrangement and Neelachal not being able to establish its claim by cogent evidence.

21. Impugned order arises out of the writ petitions assailing proceedings for requisition of plot No. 2426. Neelachal before us has no right title and interest in respect of plot No. 2426. Therefore, we are unable to allow Neelachal to continue to assail the impugned order in respect of plot No. 2426 particularly when Neelachal has failed to establish any right, title and interest in

respect thereof. No right of Neelachal has been affected by the impugned order.

22. In the appeal of Neelachal, from time to time orders had been passed. An interim order directing the parties to maintenance status quo in respect of plot No. 2426 had been passed by the co-ordinate Bench.

23. Writ petitioners in WP 7624 (W) of 2015 had filed a contempt petition being CPAN 392 of 2020 alleging violation of the order dated July 30, 2019. In such contempt petition, Court had passed an order dated August 18, 2022. District Magistrate, South 24 Parganas had issued a notice dated August 22, 2022 upon Neelachal informing Neelachal that a demarcation would be conducted in terms of the order dated July 30, 2019 passed in WP 7624 (W) of 2015.

24. Neelachal has claimed that it became aware of the order dated July 30, 2019 passed in WP 7624 (W) of 2015 on receipt of such notice. Neelachal had thereafter preferred an appeal against the order dated July 30, 2019 passed in WP 7624 (W) of 2015 which was registered as MAT 434 of 2020. Neelachal has claimed that while filing of such appeal, it came to know about the three other writ petitions. Neelachal had thereafter filed three contempt

petitions alleging violation of the order of status quo dated November 14, 1991.

25. Neelachal has failed to draw our attention to material on record to suggest let alone establish that any of the alleged contemnors violated any order of the High Court in the manner as claimed or otherwise. Single Bench in WP 7426 (W) of 2015 had directed the authorities to make over possession of the plot No. 2426 to the owners thereof which the authorities did. Neelachal has claimed that they were unaware of WP No. 7624 (W) of 2015 in which the order dated July 30, 2019 was passed since, their addresses were not correctly described in the cause title therein.

26. Land belonging to the State apparently has been sold to Neelachal by a registered deed of conveyance dated December 29, 1990. Despite our repeated request nothing has been place on behalf of the either Neelachal or the State to substantiate that, the sale of the land in favour of Neelachal took place by a process which is not violative of Article 14 of the Constitution of India.

27. In absence of materials being placed before us that the sale of the immovable properties which were acquired by the State ostensibly for public purpose were sold to Neelachal, a private entity, without adhering to the principles enshrined under Article 14 of the Constitution of India for sale of immovable properties

belonging to the State, we are of the view that an investigation should be undertaken by the State in respect thereof.

28. State will therefore investigate the persons involved in deciding to sell the immovable property in favour of Neelachal by the registered deed of conveyance dated December 29, 1990 and take appropriate and suitable steps with regard thereto, forthwith.

29. We find no merit in the appeals as well as in the contempt petitions.

30. FMAT 2354 of 1991, FMAT 2355 of 1991, FMAT 2356 of 1991, CPAN 1264 of 2024, CPAN 1268 of 2024, CPAN 1269 of 2024 along with all connected applications are disposed of without any orders as to costs.

[DEBANGSU BASAK, J.]

31. I agree.

[MD. SHABBAR RASHIDI, J.]