

07.01.2025
Item No.16
PG
Ct. No.7

W.P.A. 22590 of 2024

**Sri Dilip Kumar Halder
Vs.
State of West Bengal & Ors.**

Mr. Kamalesh Bhattacharya
Ms. Kakali Pal

.....for the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. Aniruddha Sen

.....for the State

1. The petitioner has challenged the order of the District Magistrate, Purba Bardhaman dated September 27, 2021 in this writ petition. Petitioner claims that his mother was the original owner and occupier of several plots of land including Dag No. 1109 in Mouza-Uddharanpur under Police Station-Ketugram in the District of Purba Bardhaman.
2. The petitioner claims that upon the death of his mother, her right, title and interest in respect of the aforesaid plot of land devolved upon the petitioner. The petitioner claims that the respondent authorities have installed a pipeline underneath a portion of the aforesaid property of the petitioner without initiating any proceeding for requisition and/or acquisition. Petitioner through his learned advocate's letter dated February 8, 2019 submitted a representation before the Collector, Purba Bardhaman praying for payment of adequate compensation to the petitioner.

3. Alleging inaction on the part of the respondent authorities, petitioner approached this Court by filing a writ petition being W.P. No. 4271(W) of 2019. The said writ petition was disposed of by an order dated March 12, 2021 by directing the District Magistrate and Collector, Purba Bardhaman to consider the said representation and dispose of the same by passing a reasoned order after giving an opportunity of hearing to the petitioner within the time limit stipulated in the said order.
4. Pursuant to the said order passed in the earlier writ petition, the District Magistrate passed the order dated September 27, 2021.
5. Though from the reliefs claimed in the writ petition, this Court finds that such order has not been challenged but Mr. Bhattacharya, learned advocate appearing for the petitioner submits that through inadvertence, the prayer for setting aside the said order has not been made though in the body of the writ petition a challenge is thrown to the said order. He further submits that the petitioner has prayed for payment of compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.
6. Mr. Bhattacharya further submits that the work order has been issued sometimes in the month of January 2022 to execute the work of installation of M.S. pipeline

at Uddharanpur State Owned Major RLI Scheme under Katwa (A-M) Sub-Division. He submits that the petitioner has submitted an objection against laying down pipeline. In the said objection letter, petitioner prayed for payment of compensation or for providing job to the son of the writ petitioner.

7. Heard the learned advocate for the State on such submissions.
8. The cause of action for filing the earlier writ petition being W.P. No.4271(W) of 2019 is that no step was taken pursuant to the representation of the petitioner through his learned advocate's letter dated February 8, 2019. After going through the said representation, this Court finds that admittedly the pipe line and office room was constructed over the Plot No.1109.
9. The District Magistrate passed an order on September 27, 2021 pursuant to a direction passed by this Hon'ble Court in the aforesaid writ petition. The District Magistrate, after noting the provisions laid down under Section 30(1) of the West Bengal State Tubewell and Lift Irrigation Act, 1974 (for short, "the 1974 Act") observed that a person affected by any work undertaken pursuant to the said Act ought to have applied for compensation before the Collector not later than three months after the first occurrence of the injury in respect of such claim. The District Magistrate recorded a factual finding that the ancestor of the petitioner had

no objection regarding laying such pipeline and construction of office room. Such finding is supported by the admission of the petitioner contained in the representation dated February 8, 2019. The District Magistrate also took into consideration the claim of the petitioner for providing a job to his son in terms of the order passed in writ petition being W.P. No.13264 (W) of 2018. The District Magistrate noted that the facts of the case in W.P. No.13264 (W) of 2018 is distinguishable to that made out by the petitioner in the case on hand. The District Magistrate rightly noted that the 1974 Act does not contemplate payment of compensation at the rate of present market value or for providing job to the member of a family of the person, who has suffered the injury.

10. This Court, therefore, finds that there is no infirmity in the order passed by the District Magistrate on September 27, 2021.
11. Mr. Bhattacharya, learned advocate would strenuously contend that fresh steps for laying out pipeline over the property of the petitioner is sought to be taken by the Government of West Bengal, Water Resources, Irrigation and Development Department, as would be evident from the Memo dated February 9, 2022. Though the said Memo refers to execution of work for Bury of MS Pipe at Uddharanpur State Owned Major RLI Scheme under Katwa (A-M) Sub-Division but it does

not appear from the said memo that the property of the petitioner is involved under the said scheme.

12. Since the petitioner has submitted an objection alleging that fresh steps are being taken for laying pipeline over the property of the petitioner through representation dated February 16, 2022, this Court directs the District Magistrate and Collector, Purba Bardhaman being the 7th respondent to consider the said representation and dispose of the same by passing a reasoned order after giving an opportunity of hearing to the petitioner and to communicate the same to the petitioner immediately thereafter.
13. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order along with the copy of the representation dated February 16, 2022, which is appearing at page 37 of the writ petition.
14. It is, however, made clear that this Court has not gone into the merits of the claim made by the petitioner that the steps are being taken to lay pipeline over the said property by virtue of the Memo dated February 9, 2022 and the authority will be free to decide such issue in accordance with law.
15. It is recorded that in spite of liberty being granted, no affidavit-in-opposition has been filed by the State.
16. With the aforesaid directions, writ petition stands disposed of.

17. No costs.
18. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)