

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

**Present :
The Hon'ble Justice Aniruddha Roy**

WPA 22361 of 2023

Goleara Bibi

-vs-

The Union of India & Ors.

with

WPA 22358 of 2023

Aihun Bibi

-vs-

The Union of India & Ors.

with

WPA 22363 of 2023

Jamuna Khatun

-vs-

The Union of India & Ors.

with

WPA 22365 of 2023

Sk. Aksar & Ors.

-vs-

The Union of India & Ors.

For the Petitioners : Sk. Rejaul Alam
in

WPA 22361 of 2023

WPA 22358 of 2023

WPA 22363 of 2023

WPA 22365 of 2023

For the Respondent : Mr. Dhiraj Kumar Trivedi, Ld. DSG.
 Nos. 1 to 3/UOI in Ms. Tanusree Ghosh
 WPA 22361 of 2023,
 WPA 22363 of 2023,
 WPA 22365 of 2023

For the Respondent : Mr. Dhiraj Trivedi, Ld. DSG
 nos. 1 to 3/UOI in Ms. Susmita Saha Dutta
 WPA 22358 of 2023

For the State : Mr. Soumitra Bandyopadhyay
 in Mr. Subhasish Bandyopadhyay
 WPA 22358 of 2023

Heard on : 16.01.2025

Judgment on : 16.01.2025

Aniruddha Roy, J. :

Mr. Rejaul Alam, learned Advocate appears for the petitioners.

Mr. Dhiraj Kumar Trivedi, learned Deputy Solicitor General appears for Union of India, he files the reports in the form of affidavits in all these writ petitions, the reports are taken on record. Copies have already been served upon the petitioner.

The learned Advocate appearing for the petitioners files exceptions in the form of affidavits to all such reports in all these writ petitions, such exceptions are also taken on record.

Facts:

1. The case of each writ petitioners in these bunch of writ petitions are identical and same. The learned Advocates appearing for the parties

have also admitted that the case made out by the petitioners in their respective writ petitions are identical and same. The stand taken by the respondents in their reports are identical and same. The stand taken by the petitioners in their exceptions filed to each such report are also identical and same.

2. The petitioners claiming to be the legal heirs of the original land losers claimed compensation as land losers in respect of their lands acquired by the railway authority. The original land losers were the predecessors-in-interest of the petitioners.
3. The specific averment in the writ petition is that the railway authority issued a notification on **October 21, 2010**, for acquisition of land but the petitioners had no knowledge whether they were the owners of the subject lands or any part thereof. In or about **March 25, 2022** after searching and collecting the **Record of Rights** for the first time the petitioners came to know that they are the recorded owners of the subject land as co-sharers. The petitioners then submitted their representations in or around **March, 2022** with a prayer for compensation and Land Losers Certificates but till date and to issue the Land Loser Certificate the authority has not taken any step to release such compensation. The petitioners pursued their claims before the jurisdictional authority by successive representations. No step has been taken by the authority hence, this writ petition.

Submissions:

4. Sk. Rejaul Alam, learned Advocate appearing for the petitioners referring to the **Record of Rights** annexed to the writ petitions submits that the **Record of Right** reflects the names of the petitioners in respect of the self-same acquired lands. Therefore, the petitioners are the recorded owners and are eligible to receive compensation and Land Loser Certificates on account of the acquired land, as they are the recorded owners. Learned Advocate for the petitioners further submits that the other co-sharers in respect of the self-same acquired lands, being the private respondent nos. 4 to 6, have already received compensation proportionate to their share-holding on the land and the certificate. The land all material time was an undivided land without partition. The petitioners belonging to the same class as that of the respondent nos. 4 to 6 claim the same benefit being the compensation and the Land Loser Certificate.
5. Learned counsel for the petitioners then submits that immediately after finding their names in the Record of Rights in the year **2021-2022** the petitioners submitted their representations in or around **March, 2022** before the authority for claiming compensation and Land Losers Certificates but the authority has not taken any step thereunder.
6. Learned Deputy Solicitor General Mr. Trivedi appearing for the Union of India/railways referring to the reports in the form of affidavits

- which are on record submits that way back on **May 19, 2010** the notification was published in exercise of power under **Section 20A sub-Section (1) of the Railways Act 1989** (for short **the Railways Act**) **Annexure - A1 at page 13** to the Report. The said notification also spoke of any person interested in the lands mentioned in the notification within **thirty days** from the date of the publication of the said notification must submit their objections in terms of **sub-Section (1) to Section 20D** of the Railways Act. The said notification further spelt out that any order made by the competent authority under **sub-Section (2) to Section 20D** of the Railways Act shall be final.
7. Learned Deputy Solicitor General then refers to a notification dated **September 7, 2010 Annexure - A2 at page 15** to the Report which was also published in the **State Gazette** and was issued in exercise of power under **Section 20E of the** Railways Act. Referring to the provisions laid down under **sub-Section (4) to Section 20E** of the Railways Act he submits that, such steps cannot be subjected to any challenge before any court of law.
8. None of these suggests, as referred to above, the petitioners intervened by raising its objection and lodged their claims on account of acquisition. The land losers and/or their legal heirs who contemporaneously raised objection and lodged their respective claims, were duly redressed and addressed and ultimately the entire compensation determined by the appropriate authority in respect of

the acquired lands was paid and distributed amongst the co-sharers of the land upon verification of all the records and documents. At that juncture also the petitioners did not lodge their claims or object to the acquisition procedure. The stand of the railway shall further be clear from its written communication dated **November 28, 2023**

Annexure-R1 at page 4 to the report which is quoted below:

“c) Compensation should be payable to the eligible land losers/awardees at par their apportionment/land share those are having of valid Deed, revenue Records of Right (ROR) and clear physical possession in railway’s acquired/vested area prior to publication of 20A Gazette Notification only i.e.; before 20.06.2010. But name claimant in respect of alleged suit property was neither registered in revenue Records of Right (ROR) nor her possession was established before the then Competent Authority /LA (Land Acquisition Officer) at the material time of land acquisition during 2010-11. The Railway provides compensation to the recorded land owners/co-sharers as on date of acquisition. The portion of land once acquired and declared vested for the Railway project cannot be transferred to the original/recorded owner or to any other party. If any ownership of land has been transferred to writ petitioner subsequently through inheritance or otherwise, the question of providing compensation from the Railway does not arise.

D) in this connection, pursuant to the newspaper notification u/s 20F/4 of The Railways Act, 1989 (24 of 1989) amended in the year 2008 at The Railways (Amendment) Act, 2008, published in ‘Time of India’ of dated 21.10.2010(marked as ‘A-5’) that name of writ petitioner was no where accounted in the list of the landowners/co-sharers/awardees in

respect of alleged suit property acquired for Despran-Nandigram (17.0km) project.

*E) Compensation and other consequential benefits was provided to the eligible co-sharers/awardees of the alleged suit plot no. 1, 2, 3 and 4 as mentioned vide para (A) & para (B) at par their apportionment in respect of land acquired for Deshpran-Nandigram (17km.) project as per the under mentioned details tabulated below: *****”*

9. Learned Deputy Solicitor General further submits that, since the entire compensation determined on account of the acquisition of lands has already been paid, neither the requiring authority nor the acquiring authority is liable to pay any further sum more than beyond the determined compensation to anybody. Even, if the petitioners still want to pursue their claims, they shall pursue their claims against the other co-sharers who have already been paid the entire compensation.
10. In the light of the above submissions, the respondents submit that these writ petitions are devoid of any merit and are liable to be dismissed.

Decision:

11. Upon considering the rival contentions of the parties and on perusal of the materials on record, it appears to this court that, the acquisition process had commenced way back in **May 2010** with the publication of the notice under **sub-Section (1) to Section 20A** of the

Railways Act. No objection was submitted neither any claim was lodged by the petitioners contemporaneously till **2022**. The moment the said notices were published in **May 2010** and subsequent thereto contemporaneously inviting the objections from the interested parties, the same shall have to be understood and construed as deemed notices to the petitioner also. The petitioners, despite having such notices, allowed the acquisition proceeding to be carried out without lodging any claim on account of compensation.

12. On the basis of the Record of Rights the petitioners lodged its claim for the first time in **2022** as owners of the acquired land. Law is well settled that Record of Rights cannot confer any title. Record of Rights merely demonstrate that an occupier of a particular land has been paying the land revenue. Neither in the writ petition nor in the exception to the report filed by the petitioners, the petitioners have submitted any title document which can confirm title of the petitioners at the material point of time in **2010** or even at the subsequent point of time. Since the petitioners allowed the land acquisition proceeding to be carried out since **2010** and about twelve **years** thereafter they lodged claims for receiving compensation and Land Loser Certificates only on the basis the Record of Rights, the petitioners were required, at the threshold to establish its title and eligibility to claim compensation on the acquired land. More so, the record shows all other co-sharers have received their compensation

and Land Loser Certificates at the relevant point of time who lodged their claim contemporaneously. When a total compensation has already been determined in its entirety on account of acquisition of land unless the same is challenged following the due process of law, such determination attains finality and the compensation is crystallized. After the entire crystallized compensation being paid to the land losers, there is no further obligation on the part of the requiring or acquiring body to pay any compensation in excess or beyond its final determination on account of the acquired land. The acquisition proceeding stands concluded then.

13. In the view of the above foregoing reasons and discussions, this Court is of the view that, right to receive compensation on account of acquired land is definitely a constitutional and legal right of the land losers but to avail of such right the land losers and/or unpaid legal heirs thereof must first establish their claims in an unimpeachable manner before the authority.
14. In view of the above, the petitioners shall be at liberty to file a properly constituted civil suit praying for a declaration with regard to their right, title and interest in respect of the acquired land and their eligibility for claiming compensation in respect of the acquired land before the jurisdictional civil court. The petitioners shall be at liberty to file such civil suit **positively** within a period of **six weeks** from date.

15. In the event, the civil court Decree goes in favour of the petitioners then the petitioners shall produce the same before the appropriate authority for considering the claim of the petitioners for compensation and Land Loser Certificates strictly in accordance with law.
16. It is made clear that, this decision shall not create any right or equity in favour of the petitioners to claim compensation and Land Loser Certificates before the appropriate authority unless they succeed to their respective claims strictly in accordance with law.
17. In view of the foregoing discussions and reasons, this court is of the firm view that, these writ petitions are devoid of any merit and accordingly, these writ petitions, **WPA 22361 of 2023, WPA 22358 of 2023, WPA 22363 of 2023** and **WPA 22365 of 2023** stand **dismissed**, without any order as to costs.
18. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)