

24.03.2025
Ct. No. 2
Sl. No. 7
Moumita

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

WPA 26353 of 2024

**Nazima Bibi
Vs
The State of West Bengal and Ors.**

**Ms. Pampa Dey (Dhabal)
Mr. Krishna Deo Das
..... for the Petitioner**

**Mr. Soumitra Bandyopadhyay,
Ld. Sr. Govt. Adv.
Mr. Ram Chandra Guchhait
...for the State-respondent nos. 1 to 6.**

**Ms. Pranjal Mathur
Mr. Indrajit Roy
Mr. Basabraj Chakraborty
Mr. Satyaki Chaudhuri
.....for the Respondent no. 7/CESC Ltd.**

Ms. Pampa Dey (Dhabal), learned counsel appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned Advocate along with Mr. Ram Chandra Guchhait, learned Advocate appears for respondent nos. 1 to 6.

Ms. Pranjal Mathur, learned counsel appears for respondent no. 7, CESC Ltd.

On the prayer of the learned advocate appearing for the petitioner time to file affidavit-in-reply to the affidavit-in-opposition filed by CESC, Ltd. stands extended till today. The reply filed in Court today, is taken on record. Copy has been served.

The petitioner submits that by virtue of a registered conveyance dated **August 1, 2019 annexure p-1 at page 16** to the writ petition, the petitioner has purchased the subject land allegedly from the legal heirs of one Serajuddin Mallick. Since purchase, the petitioner has been enjoying the property and is in possession of the property and the same is earmarked in the record of land as **pond**.

Learned counsel Ms. Pampa Dey Dhabal, appearing for the petitioner referring to the record of right **annexure p-4 at page 35** to the writ petition submits that the name of the petitioner is featuring there. She submits that suddenly **in 2022** the petitioner discovered that the entry in the record of right has been changed showing the name of the respondent no. 7 as lessee in respect of the pond. The petitioner for the first time came to know such change in the record of right **in 2022**. Immediately the petitioner raised objections and submitted representations before the state authority including the jurisdictional B.L. & L.R.O., the jurisdictional collector also but no step has been taken. Hence, this writ petition.

Learned counsel for the petitioner further submits that, the petitioner has been enjoying the property even till today being in possession therein. Neither state nor

respondent no. 7 has taken possession of the land. Though there was a gazette notification published on **March 31, 1994** disclosed by the writ petitioner as **annexure p-6 at page 39** to the writ petition showing that the **R.S. Plot No.1076** being the subject land was in the list of the land for acquisition, no notice was served upon the predecessors-in-interest of the petitioner neither on the petitioners with regard to acquisition. The predecessors-in-interests of the petitioner being the actual land losers have not yet received compensation, as contended by the petitioner.

Ms. Pranjal Mathur, learned counsel appearing for the respondent no. 7 denies and disputes submissions made on behalf of the petitioner. Referring to **annexure R-1 at page 13** to the affidavit-in-opposition filed by respondent no. 7, she submits that possession of the subject land has been taken over by the respondent no. 7 way back on **February 2, 1994**. She further refers to the deed of transfer **annexure p-7 at page 43** to the writ petition and submits that the deed of transferor was executed on **June 7, 2000** by the state in favour of respondent no. 7. This document has been admitted by the petitioner. The transfer deed will show that substantial purchase consideration has been paid by respondent no. 7 in favour of the transferor state,

therefore, the title of the land after acquisition has already been passed in favour of respondent no. 7.

The respondent no. 7 has been paying the property tax regularly before the appropriate authority.

Learned State Counsel at the outset on facts adopts the submissions made on behalf of the respondent no. 7. He further submits that on facts it is clear that it is a post acquisition purchase and as such the purchase is void ab initio. Learned state counsel appearing for the state referring to **page 5** from its report submits that, the document at **page 7** from the report would show that Mr. Serajuddin Mallick was the actual land loser who has been paid compensation.

Learned counsel for the petitioner has denied and disputed the submissions made on behalf of the state to the extent that compensation has been paid. She further submits that since the land is not being used by the beneficiary of the acquisition, that is respondent no. 7, the same should be returned back.

After considering the rival contentions of the parties and upon perusal of the materials on record it appears that the gazette notification dated **March 31, 1994** disclosed in the writ petition as also disclosed by the state in its report shows that the subject land being **R.S. Plot No. 1076** was included in the acquisition proceeding. The original land owner was Mr. Serajuddin

Mallick from whose successors-in-interest, the petitioner alleged to have purchased the land by virtue of execution of the said conveyance dated **August 1, 2019**. The document **at page 7** to the report shows Mr. Serajuddin Mallick being the original owner and actual land loser was paid compensation. The denial of such fact by the petitioner is not established or supported by any evidence before this Court. The petitioner has also disclosed the transfer deed by virtue of which subject land was transferred in favour of respondent no. 7 post acquisition by the state.

The document annexed to the affidavit-in-opposition **at page 13** thereto further demonstrates that possession of the land has duly been made over to respondent no. 7, the beneficiary under the acquisition.

For all those reasons, it appears that the petitioner is a post acquisition purchaser. Thus the purchase of the subject land by the petitioner at a post acquisition stage is bad-in-law, illegal and void ab initio. The petitioner cannot claim any right over and above the subject land by virtue of the said conveyance dated **August 1, 2019**. Record of right does not confer any title. It merely shows, at the highest, the person named therein is found to be in possession of the land and has been paying the land revenue. Since the right of the petitioner on the land is not established as the petitioner is the post acquisition

purchaser, the writ petition is not maintainable and also is devoid of any merit.

In view of the fore going reasons and discussions this writ petition **WPA 26353 of 2024** stands ***dismissed***, without any order as to costs.

(Aniruddha Roy, J.)