

S/L 4
17.04.2025
Court. No. 19
Suwayan

WPA 25348 of 2023

**Sekh Hisabuddin
Vs.
The State of West Bengal & Ors.**

*Mr. Saikat Chatterjee
Ms. Sudakshina Dey
Mr. Partha Pratim Sinha*

...for the petitioner.

*Mr. Supratim Dhar, Sr. Adv.
Mr. Amritlal Chatterjee*

...for the State.

Mrs. Gopa Roy

...for the respondent no. 5.

*Mr. Sauradeep Dutta
Mr. Riju Bhowmik
Ms. Mina Biswas*

...for the respondent nos. 6 & 8.

1. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ against the respondents/authorities more specifically against the respondent no. 6 being the Chairman of the Dankuni Municipality commanding him to take appropriate steps for disbursement of adequate compensation for utilization of the land of the writ petitioner particulars of the which has been mentioned in prayer (a) of the instant writ petition.
2. In course of his submission learned Counsel appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos. 47 to 49 of the instant writ petition being a copy of the notice dated 08.08.2023 as issued by the learned Advocate for the writ petitioner addressed to the various authorities. It

is submitted that from the materials as placed before this Court it would reveal that after purchase of the property in question on 18th October, 2016 (wrongly typed as '2018') it has been noticed by the writ petitioner that the respondent no. 6/authority has constructed a pump room measuring about 120 sq. ft. on the plot of the writ petitioner and on 22.08.2025 one pump machine and one electric meter were installed by the Dankuni Municipality with the assistance of the jurisdictional DISCOM. It is further submitted on behalf of the writ petitioner that though the authorities of the Dankuni Municipality are using a portion of the land of the writ petitioner but no steps have been taken by the authorities of the Dankuni Municipality for disbursement of adequate compensation and/or the respondents/State has also not taken any steps for acquisition of the plot of land.

3. In course of his submission Mr. Dhar, learned Senior Advocate appearing on behalf of the respondents/State has filed a report dated 19.12.2023 as submitted by the I.C. of Dankuni P.S. Drawing attention to the various annexures to the said report it is submitted by Mr. Dhar that from the said report along with its annexures it would reveal that the erstwhile vendor of the writ petitioner had executed a 'no objection' supported by affidavit in favour of the Dankuni Municipality regarding setting up a pump room on a portion of the property which was subsequently transferred to the writ petitioner. It is further submitted by Mr. Dhar

that the report as submitted on behalf of the respondents/State reveals that the construction of the pump room was completed in the year 2015 that is prior to the purchase of the land by the writ petitioner. It is further argued by Mr. Dhar that the writ petitioner knowing fully about the existence of the said pump room over the said plot of land purchased the said property and willfully suppressed such fact while filing the instant writ petition.

4. In course of hearing a copy of such report was supplied to the learned Advocate-on-Record for the writ petitioner by the learned Advocate-on-Record for the respondents/State.
5. Learned Advocate appearing on behalf of the Dankuni Municipality supports the contention of Mr. Dhar.
6. For effective adjudication of the instant *lis* this Court at the very outset proposes to look to the provision of the Section 74 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the 'said Act of 1993') which is quoted below in verbatim:

“74. Power to acquire and hold property –
The Board of Councillors shall, for the purposes of this Act, have power to acquire, by gift, purchase or otherwise, and hold, movable and immovable property or any interest therein, whether within or outside the limits of the municipal area.”

7. On perusal of the Section 74 of the said Act of 1993 it thus appears to this Court that the Board of Councillors of the Municipality is within their power to hold any

immovable property either within or outside the limits of the municipal area.

8. Keeping in mind the aforementioned legislative provision if I look to Annexure – B of the report as submitted on behalf of the State today it would reveal that the erstwhile owner of the plot in question that is the vendor of the writ petitioner had executed a ‘no objection’ supported by affidavit dated 01.06.2011 clearly indicating that he intend to transfer the scheduled mentioned property by way of gift of the Dankuni Municipality. It thus reveals to this Court that on the basis of such ‘no objection’ the Dankuni Municipality more specifically; the Board of Councillors of the said Municipality came into possession of a portion of the said plot of land and thereafter constructed a pump house over the said plot of land and thus by no stretch of imagination it can be held that holding possession of a portion of the plot in question by the Board of Councillors of the Dankuni Municipality is *per se* illegal.
9. As rightly pointed out by Mr. Dhar that within the four corners of the instant writ petition there is no averment on the part of the writ petitioner that the said Municipality has constructed the said pump room prior to the purchase of the plot in question by the writ petitioner. On the contrary it is the case of the writ petitioner that the Board of Councillors of the said Municipality without obtaining any permission of the

writ petitioner straightway constructed a pump house in the plot of land of the writ petitioner.

10. This Court thus considers that the writ petitioner has not approached this Court with clean hands and, therefore, the writ petitioner is also not entitled to any equity.
11. This Court further holds that by execution of the deed of conveyance in favour of the writ petitioner, the writ petitioner has practically stepped into the shoes of its vendor and, therefore, all the previous acts and deeds relating to the plot in question of the predecessor in interest of the writ petitioner that is the vendor of the writ petitioner is binding upon the writ petitioner.
12. Considering the entire aspects of the matter, this Court considers that the writ petitioner has miserably failed to make out a case for obtaining the relief as prayed for.
13. Accordingly, the instant writ petition being WPA 25348 of 2023 is dismissed.
14. There shall be, however, no order as to costs.
15. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)