

25.06.2025.
Item No. 9.
Court No. 13
ap

F.M.A. No. 265 of 2024
With
I.A. No. CAN 1 of 2023

**Eastern Coalfields Limited represented by its
Chairman-cum-Managing Director & Anr.
Versus
Ananda Moyee Bhakat (since deceased) represented
by Subhendu Bhakat & Ors.**

Mr. Tilok Bose, Id. Sr. Advocate,
Mr. A. Mukherjee,
Mr. Pradipta Bose.

...For the appellants.

Mr. Sourav Sen, Id. Sr. Advocate,
Ms. A. Chakravorty.

...For the respondent no.21.

Ms. Sulekha Mitra,
Mr. Manas Kumar Das,
Mr. Aritra Kumar Thokdar.

...For the respondent nos. 1(a), 1(b), 2 to 8.

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal,

...For the State.

1. The instant appeal is directed against the order dated 26th September, 2023 passed by a learned Single Judge of this Court.
2. The impugned order in essence has sought to execute an order of the Division Bench of this Court dated 17th October, 2012 passed in M.A.T. No. 12 of 2012, M.A.T. No. 13 of 2012 and M.A.T. No. 14 of 2012. The operative portion of the said order has been

set out by the learned Single Judge of this Court and the said portion is also set out afresh by this Court.

“For the reasons discussed hereinabove, the impugned judgment and order under appeal passed by the learned Single Judge cannot be sustained and the same is accordingly set aside. The requiring body, namely, the Eastern Coalfields Limited cannot remain in possession of the lands in question after lapsing of the acquisition proceedings as the title of the original owner in respect of the lands in question has revived after lapsing of the acquisition proceedings under Section 7A of Act II of 1948. The Eastern Coalfields Limited Authorities are therefore, directed to vacate the lands in question forthwith and make payment of the adequate compensation in accordance with law to the original owners of the said lands through the concerned Land Acquisition Collector for the period under occupation.

With the aforesaid directions, we dispose of these appeals along with the connected applications without any order as to costs.”

3. The order of the Division Bench was carried to the Hon’ble Supreme Court of India in S.L.P (C) No. 25739 of 2013 (State of West Bengal & Ors. – Vs. – Mandodari Bhakat (Dead) by L.Rs. & Ors.) along with four other Special Leave Petitions. The Hon’ble Supreme Court of India in the order dated 14th November, 2017 was pleased to observe as follows:

“Upon hearing the counsel the Court made the following

O R D E R

The West Bengal amendment to the Land Acquisition Act, particularly, the second proviso to Section 9(3B) instituted by the West Bengal Land Acquisition Laws (Amendment and Validation) Act, 2011, by virtue of which the lapsed Land Acquisition proceedings were sought to be revived, has also spent its force inasmuch as the Land Acquisition Act itself has been repealed and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been enacted in its place.

In the changed circumstances it was the duty of Eastern Coal Fields Limited to draw the attention of the Court with regard to the precise status of the land involved in the present proceedings so as to enable the Court to consider what would be an appropriate order that should be passed. The Eastern Coal Fields Limited has not laid before the Court the facts necessary to enable it to pass final orders in the matters.

In the aforesaid circumstances, we direct the District Magistrate (West Burdwan) to cause a field verification of the land involved in the case(s), the details of which will be furnished to the District Magistrate by the petitioner(s) as well as the Eastern Coal Fields Limited.

The District Magistrate will verify as to whether the land involved is being utilized by Eastern Coal Fields Limited for mining activities and if so the extent thereof.

The District Magistrate will also find out the status of the adjacent/contiguous lands on all sides and report to this Court whether there is any mining activity/activities on such adjacent/contiguous lands. Report of the District Magistrate be submitted to the Registry of this Court within a eight weeks from the date of receipt of this order.

List the cases after receipt of report from the District Magistrate.”

4. In terms of the aforesaid directions, it appears that the District Magistrate, Paschim Bardhaman has submitted a report to the Hon’ble Supreme Court of India based on which, the following order was passed on 9th March, 2018.

“Upon hearing the counsel the Court made the following

O R D E R

Permission to file additional documents is granted.

In view of what has been recorded in our previous order dated 14th November, 2017 and the report of the District Magistrate, Paschim Bardhaman submitted pursuant thereto which would indicate that there is no mining activity on the land in question, we find good reason to interfere with the order of the Division Bench of the High Court. All the Special Leave Petitions are accordingly dismissed. It will naturally, be open for the State or for the Acquiring Authority to take steps under the provisions of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, if so advised.”

5. Mr. Tilok Bose, learned Senior Advocate appearing on behalf of ECL would argue by reference to portion of the judgment of the Division Bench that ECL was never in possession of the land in question. It is further argued by reference to the observations of the Hon’ble Supreme Court of India that the land was never utilized by them. It is also argued that the land has vested in the State Government in terms of the acquisition proceedings and the question of the appellant handing over any possession of the land to the respondents/writ petitioners does not and cannot arise. The case of the petitioners before the Single Bench on the earlier writ petitions being WP 14323 of 2011 and WP 14325 of 2011 was that they were in possession of the premises.

6. Learned Counsel for the respondents/writ petitioners have argued that it was the stand of the ECL even before the Hon’ble Supreme Court of India in the pleadings that they were in possession of the land in question. The ECL is stated to have also argued adverse possession of the lands before the earlier Division Bench.

7. It appears to this Court that there is a document admitted by the ECL dated 18th June, 1976 whereby the possession of 11 odd acres of land (including the

1.54 acres of the writ petitioner) was handed over to the ECL by a letter in writing.

8. This, however, is disputed by Mr. Bose, learned Senior Advocate appearing for the appellants stating that the possession was only a paper possession and ECL was never in physical possession of particularly the 1.54 acres of land of the respondents/writ petitioners.

9. This Court is of the view that the issues raised by the ECL cannot be raised again in their proceedings due to the principle of Res Judicata. The appellants are, therefore, duty bound to comply with the directions contained in the order of the Division Bench dated 17th October, 2012 (supra). Since the same has been confirmed by the Hon'ble Supreme Court of India vide orders dated 14th November, 2017 and 9th March, 2018 (supra).

10. In view of the direction of the Division Bench in order dated 17th October, 2012 as affirmed by the Hon'ble Supreme Court, the learned Single Judge has no other option than to direct the Eastern Coalfields Limited (in short "ECL")/the appellant herein to comply with the order of the Division Bench as set out hereinabove.

11. There are two parts to such compliance. First is to vacate 1.54 acres of land and to handover the same to the writ petitioner. Secondly, ECL is required to pay

the respondents/writ petitioners compensation for the period of occupation of the land.

12. It further appears to this Court that ECL has on two several occasions made payments as demanded by the Acquiring Body i.e. the State of West Bengal, namely, Rs.5,04,815/- on 26th June, 1997 and Rs.4,07,030/- on 9th July, 2012.

13. Learned Counsel for the State, however, submits that on behalf of ECL, a sum of Rs.8,62,835/- has been received and placed before the Land Acquisition Collector, Bardhaman by cheque on 26th June, 1997. A further demand for Rs.1,94,925/- dated 13th March, 2000 has been made on the appellants, along with a calculated and communicated demand for a sum of Rs.4,07,029.30/- which appears to have been paid to the State.

14. By further communications dated 16th February, 2023 and 13th October, 2023 the Special Land Acquisition Officer, Paschim Bardhaman has demanded an additional sum of Rs.20,86,645/- from the ECL for being paid to the writ petitioner respondents to comply with the order of Division Bench dated 17th October, 2012 (supra) and the orders of the Supreme Court (supra).

15. The ECL appears to have acted upon the orders of the Division Bench dated 17th October, 2012 and hence cannot be permitted to resile from the same. The learned Single Judge was, and this Court is bound

by the directions contained in the order of the earlier Division Bench dated 17th October, 2012 (supra) as confirmed by the Hon'ble Supreme Court of India.

16. ECL as of now is bound to further comply with the directions contained in the aforesaid order dated 17th October, 2012 (supra).

17. The impugned order is wholly justified. The Special Land Acquisition Officer shall calculate the compensation for occupation of the said 1.54 acres of the writ petitioner's land by the ECL, a period of two months from date, if not already done. Upon a demand being raised by the State, the ECL shall make payment to the writ petitioners, minus any sum already paid to them.

18. The subject matter of the instant appeal and the writ petition being 1.54 acres of land is confined to the same. The possession of the land is also required to be handed over by the appellants/ECL to the writ petitioners free from all encumbrances. The impugned order dated 26th September, 2023 passed by a learned Single Judge of this Court shall stand modified accordingly.

19. With the aforesaid observations, the instant appeal shall stand disposed of.

20. In view of disposal of the appeal itself, the connected application being CAN 1 of 2023 shall also stand disposed of.

21. There will be no order as to costs.

22. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)