

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Prasenjit Biswas

**MAT/2143/2024
THE STATE OF WEST BENGAL AND ORS.
VS
LOKKON SOREN AND ORS.**

For the Appellants : Mr. Joyjit Choudhury, Ld. AAG
Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal, Advocate
Ms. Sourteya Ganguly, Advocate

For the respondents : Mr. Prosenjit Mukherjee, Advocates
/writ petitioners Md. Habibur Rahman, Advocate
Sk. Jahangir

Heard and judgment on : July 1, 2025

DEBANGSU BASAK, J.

1. Appeal is at the behest of the State and its functionaries and directed against the order dated March 6, 2024 passed in WPA 25102 of 2023.
2. By the impugned order, learned Single Judge directed the appellants to initiate proceedings for direct purchase of the plot in question from the writ petitioners at present market rate and take the proceedings to its logical conclusion.
3. Learned advocate appearing for the appellants submits that, a patta was initially granted in favour of the predecessor-in-interest of the

writ petitioners. Thereafter, the land in question was required for a public purpose. Land in question is situated adjacent to the Indo-Bangladesh border. Border Security Force (BSF) required the plot in question. Consequently, possession of the plot in question was taken and made over to the BSF authorities.

4. Learned advocate appearing for the appellants submits that, the land stood vested with the State and, therefore, initiation of fresh acquisition proceedings in respect of the land in question do not arise. Moreover, the direction for direct purchase from the writ petitioners also is not in accordance with law. Appellants cannot be forced to purchase the land which belongs to the appellants in the first place.
5. Referring to the terms of the patta granted in favour of the writ petitioners, learned advocate appearing for the appellants submits that, the writ petitioners did not utilize the land for the objects specified therein. Appellants retained the right to initiate proceedings for annulment of the patta. Such opportunity should be afforded also.
6. Learned advocate appearing for the appellants submits that the appellants took a sympathetic view of the entire situation and decided to make over alternative land to the writ petitioners. He points out that, in the proceedings before the concerned District Magistrate, the writ petitioners agreed to receive alternative land in

lieu of the plot in question. Alternative land was allotted to the writ petitioners. Despite such efforts being taken on behalf of the appellants, the writ petitioners did not opt for the alternative land. He submits that, no compensation is payable to any of the writ petitioners.

7. Learned advocate appearing for the writ petitioners submits that, under Section 49 of the Land Reforms Act, 1955, there is a restriction on transfer. He also refers to Rule 20(A) of the West Bengal Land Reforms Rules, 1965, in support of his contentions. He submits that none of the writ petitioners violated the provisions of Section 49 of the Act of 1955 or Rule 20A of the Rules of 1965. He submits that, the writ petitioners succeeded to the patta on the death of the original patta holder.
8. Learned advocate appearing for the writ petitioners submits that, the patta in respect of the plot in question vested the right, title and interest of the plot in question in favour of the writ petitioners. Possession of the writ petitioners in respect of the plot in question cannot be disturbed without the due process of law. He submits that, since the possession in question was taken by a process unknown to law and therefore, the appellants are obliged to pay compensation of the same.

MAT/2143/2024

9. Learned advocate appearing for the writ petitioners submits that, the alternative plot of land which was shown to the writ petitioners were not proper and could not be accepted. He submits that, the State authorities agreed to pay compensation for the plot of land in question. In support of such contention, he draws the attention of the Court to the order dated June 6, 2023 in this regard.
10. Controversy in the present appeal relates to a particular plot of land over which, a patta was granted to the predecessor-in-interest of the writ petitioners on November 6, 1978.
11. We perused the deed of patta a copy of which is made available in the records. Deed of patta contains several covenants. One of the covenant is that, the land will be used for agricultural purpose. One other condition is that, the State authorities, which granted the patta, will be entitled to initiate proceeding for annulment of the patta.
12. As on date, no annulment proceeding stands initiated in respect of the patta in question. At least our attention is not drawn to such fact.
13. Original patta holder expired on September 3, 2018. The writ petitioners claim to be the heirs and legal representatives of the original patta holder.
14. Apparently, the land in question was taken possession of by the BSF in or about July, 2018. On or about August 17, 2018, BSF paid compensation to the State Government. The writ petitioners initially

MAT/2143/2024

applied before the BSF for justice. Thereafter, the writ petitioners approached other different authorities. Writ petitioners made a representation dated February 28, 2022. Writ petitioners filed a prior writ petition being WPA 6348 of 2022 which was disposed of by an order dated February 2, 2023.

15. By the order dated February 2, 2023, writ Court required the authorities to decide the representation dated February 28, 2022 made on behalf of the writ petitioners in respect of the land in question.
16. Authorities acting in terms of the order dated February 2, 2023 considered the representation dated February 28, 2022 and passed an order of rejection on June 6, 2023.
17. This order dated June 6, 2023 was assailed by the writ petitioners in the writ petition resulting in the impugned order before us.
18. By the order dated June 6, 2023, the District Magistrate, considering the plight of the writ petitioners and the situation obtaining at the ground level, and finding that the land in question stands transferred in favour of the BSF for the purpose of setting up of a border outpost Chambal directed the concerned Block Land & Land Reforms Officer to search for suitable Government vested land which may be made over to the writ petitioners and to file a status report with regard thereto.

MAT/2143/2024

19. Concerned Block Land & Land Reforms Officer acting in terms of the directions of the District Magistrate dated June 6, 2023 found Government vested land for the purpose of issuance of fresh patta in favour of the writ petitioners in lieu of the concerned plot. The writ petitioners, however, decided not to accept the new patta or the new allotment of the land in lieu of the plot concerned.
20. Section 49 of the Act of 1955 imposes certain restrictions on transfer. The patta originally granted on November 6, 1978 contains restrictive clauses with regard to transfer under the Act of 1955 on the original patta holder. Rule 20A of the Rules of 1965 also, does not assist the writ petitioners before us. It deals with the terms and manner of settlement of land at the disposal of the State Government under Section 49 of the Act of 1955.
21. Case before us is not that the original patta holder or the writ petitioners before us as heirs and legal representatives of the original patta holder transferred the patta in violation of Section 49 of the Act of 1955 or Rule 20A of the Rules of 1965.
22. Original patta dated November 6, 1978 allows the State to initiate proceedings for annulment of such patta. The Act of 1955 also recognizes such power of the State to do so.
23. According to the appellants, there are valid grounds for the patta granted on November 6, 1978 to be annulled. State may explore

MAT/2143/2024

such avenue, if so advised. So far as the directions contained in the impugned order is concerned for initiation of proceedings for direct purchase, we find that, subsequent to the order passed by the District Magistrate as also the imagined order, the State authorities issued new patta in favour of the writ petitioners trying to provide them with alternative land. The writ petitioners are not agreeable to accept such new patta or the new land.

24. In such circumstances, the direction for direct purchase of the land from the writ petitioners will is modified to permit the State to initiate steps in accordance with law if the proceedings for annulment for the patta, fails.
25. Impugned order is modified to such extent.
26. MAT/2143/2024 is, accordingly, **disposed of** without any order as to costs.

(Debangsu Basak, J.)

27. I agree.

(Prasenjit Biswas, J.)