

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

Present :

The Hon'ble Justice Partha Sarathi Sen

**WPA No. 27218 of 2023
With
IA No. CAN/1/2024**

**Sri Ashoke Chakraborty @ Asok Chakraborty & Anr.
Vs.
The State of West Bengal & Ors.**

**For the petitioners : Mr. Probal Kumar Mukherjee, Sr. Adv.
Mr. Jayabrata Basu Ray**

**For the KMDA/Respondent no.5 : Mr. Satyajit Talukdar
Mr. Anirdam Chatterjee**

**For the State : Mr. Chandi Charan De, Ld. AGP
Mr. Anirban Sarkar**

Heard on : July 07, 2025.

Judgment on : July 07, 2025

Partha Sarathi Sen, J:-

1. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities commanding them to take appropriate steps for vacating the plot of land belonging to the writ petitioners and/or for making payment of adequate

compensation for utilizing the land of the writ petitioners with a further prayer for issuance of writ/writs against the respondent authorities not to disturb the writ petitioners as to their free ingress and egress to the property which is the subject matter of the instant writ petition along with other ancillary reliefs.

2. In course of his argument, Mr. Mukherjee, learned senior advocate appearing on behalf of the writ petitioners, at the very outset, submits before this Court that the subject matter involved in the instant writ petition is a plot of land measuring about 5.61 acres situate in C.S. Dag No. 782 in Mouza-Chandpur within the jurisdiction of Kolkata Municipal Corporation Authority (hereinafter referred to as the "**KMC Authority**" in short) under Ward no. 94 which the writ petitioners inherited from their predecessor-in-interest.

3. It is the further case of the writ petitioners that it has come to their knowledge that pursuant to various land acquisition cases, the respondent no. 5/authority acquired a substantial portion of the said C.S. Dag No. 782. However, according to the writ petitioners, their land measuring about 34 Cottahs 11 Chittaks situates in self-same C.S. Dag under the same Mouza was never subject matter of the said acquisition proceeding.

4. It is the further case of the writ petitioners that the respondent no. 5/authority most illegally possessed the aforementioned land of the writ petitioners since 1968 and the respondent no. 5/authority was in occupation of the same till June, 2023. However, at the time of filing the

instant writ petition, the writ petitioners were in possession of the said plot of land.

5. Drawing attention to various annexures to the instant writ petition, it is argued by Mr. Mukherjee that from the photocopies of the relevant land acquisition cases including the land acquisition map, it would reveal that the said land acquisition cases and the maps pertaining thereto contain various **premises numbers**.

6. At this juncture, Mr. Mukherjee took me to the interlocutory application being IA No. CAN/1/2024 as filed by the writ petitioners as well as to the supplementary affidavit as filed by the writ petitioners and as affirmed on 3.9.2024.

7. Drawing attention to page no. 16 of the interlocutory application being IA No. CAN/1/2024, it is submitted by Mr. Mukherjee that under cover of a Memo dated 5.12.2023, the Deputy Secretary of the respondent no. 5/authority communicated that in respect of premises no. 17A, Golf Club Road, Ward No. 94, Kolkata-700 045, no acquisition related document was found in their possession.

8. Drawing attention to page nos. 17, 18 and 19 of the supplementary affidavit as affirmed on 3.9.2024 by the writ petitioners, it is submitted by Mr. Mukherjee that from the said documents, it would reveal the respondent no. 5/authority had put up a hoarding and/or signboard inside of premises no. 17A, Golf Club Road and in respect of the self-same premises, a work order has been issued in favour of a third party for cleaning the said premises.

9. Drawing attention to the counter affidavit as filed on 18.9.2024 on behalf of the respondent no. 5/authority, it is further argued by Mr. Mukherjee that in such counter affidavit, a case has been made out by the respondent no. 5/authority that plot no. 17A under KIT Scheme no. 118 in Golf Club Road is the part and parcel of premises nos. 22, Golf Club Road and premises no. 3 (Por), Russa Road, South 1st Lane in connection with L.A. Case nos. 118-139 of 1968.

10. It is contended by Mr. Mukherjee that the contention of the respondent no. 5 in such counter affidavit has got no basis at all in view of the fact no supporting documents have been placed before this Court to substantiate the plot no. 17A forms part and parcel of the aforementioned alleged acquisition process.

11. In course of his argument, Mr. Mukherjee again draws attention of this Court to the report as submitted by the respondent no. 5/authority and as affirmed on 22.5.2024.

12. Attention of this Court is drawn at page nos. 7, 8 and 12 of the said report. It is submitted that in the said report the copy of the relevant notification dated 31.5.1968 is annexed from which it would reveal that the said notification contains the list of premises which have been acquired by the KMDA Authority i.e., the respondent no. 5 herein (erstwhile KIT). It is submitted by Mr. Mukherjee that in such list of premises, premises no. 17A, Golf Club Road did not find any place.

13. Drawing attention to page nos. 8 and 12 of the self-same report, it is submitted by Mr. Mukherjee that from the copy of the aforementioned

two L.A. Case Nos., it would reveal that those L.A. Case Nos. relate to portion of 3 (Por), Russa Road, South 1st Lane and premises no. 22, Golf Club Road.

14. It is, thus, submitted by Mr. Mukherjee that by no stretch of imagination, it can be said that premises no. 17A, Golf Club Road forms part and parcel of the acquired land of the respondent no. 5/authority as claimed by them in their counter affidavit, as affirmed on 18.9.2024.

15. It is, thus, submitted by Mr. Mukherjee that it is a fit case for allowing the instant writ petition by granting reliefs to the writ petitioners in terms of the prayers made in the instant writ petition.

16. He further submits that a favourable order may be passed in favour of the writ petitioners in terms of the prayer made in I.A. No. CAN/1/2024.

17. Per contra, Mr. Talukdar, learned advocate appearing on behalf of the respondent no. 5/KMDA also draws attention of this Court to the various paragraphs of the instant writ petition. It is submitted by Mr. Talukdar that the pleadings, as made in the instant writ petition, are incomplete and the prayers, as have been made before this Court, are also vague.

18. It is further submitted by Mr. Talukdar that though the writ petitioners are very vocal regarding alleged unauthorized utilization of the land of the writ petitioners by KMD Authority, but within the forecorners of the instant writ petition, the writ petitioners have not mentioned the KMC premises no. which has been allegedly wrongfully utilized by the

respondent no.5/KMD Authority. It is, thus, submitted by Mr. Talukdar that the claim of the writ petitioners is stale one.

19. In course of submission Mr. Talukdar also places his reliance upon the report as submitted by the respondent no. 5/authority and as affirmed on 22.5.2024.

20. Attention of this Court is also drawn to the counter affidavit as filed in connection with the instant writ petition by the respondent no. 5.

21. It is submitted by Mr. Talukdar that on conjoint perusal of the entire materials as placed before this Court, it would reveal that by virtue of the aforementioned two L.A. Case Nos., premises no. 22, Golf Club Road and premises no. 3 (Por), Russa Road, South 1st Lane were acquired and as per scheme of the then KIT, in the said acquired land plot nos. have been allotted out of which one plot is '17A'. It is, thus, submitted by Mr. Talukdar that no case has been made out by the writ petitioners regarding alleged unauthorized utilization by the respondent no.5/KMD Authority.

22. Mr. De, Ld. AGP, appearing for the respondent/State and its instrumentalities has adopted the argument of Mr. Talukdar.

23. On careful perusal of the entire materials as placed before this Court and after hearing the learned advocates of the contending parties, it appears to this Court that by filing the instant writ petition, the writ petitioners have alleged wrongful utilization of the writ petitioners' land in C.S. Dag No. 782 since according to the writ petitioners in C.S. Dag no. 782, the respondent no.5/authority acquired a portion of the said dag.

However, the plot of land measuring about 34 cottahs, 11 chittacks in the self-same C.S. Dag no. 782 standing in the name of the predecessor-in-interest of the writ petitioners remain unacquired.

24. As rightly pointed out by Mr. Talukdar that within the forecorners of the instant writ petition, the writ petitioners have not mentioned about any premises no. as allotted by the KMC Authority.

25. In view of such, this Court is in dark as to whether the plot of land which is the subject matter of the instant writ petition measuring about 34 cottahs and 11 chittacks in C.S. Dag No. 782 which according to the writ petitioners, they are owners, does not form part and parcel of plot no. 17A, Golf Club Road and/or any other premise which is not the subject matter of the aforementioned land acquisition case(s).

26. This Court has also noticed that, in fact, no piece of paper has been filed on behalf of the writ petitioners to substantiate that the writ petitioners are either the owners or the occupiers of premises no. 17A, Golf Club Road and/or the names of the writ petitioners are recorded in the assessment register of the KMC Authority in respect of the said premises number.

27. On further careful consideration of the entire materials as placed before this Court, this Court finds sufficient force in the submission of Mr. Talukdar inasmuch as sufficient materials have been placed before this Court either by way of counter affidavit or by way of a report as mentioned (supra) that plot no. 17A of the erstwhile KIT Scheme forms part and parcel of two acquired mother premises, namely, premises no.

22, Golf Club Road and premises no. 3 (Por), Russa Road, South 1st Lane which have been acquired in connection with the aforementioned two land acquisition cases.

28. In view of the discussion as made hereinabove, this Court, thus, finds that the writ petitioners have miserably failed to make out a case that the respondent no. 5/authority has wrongfully utilized the land which is the subject matter of the instant writ petition.

29. This Court, thus, holds that the instant writ petition is devoid of any merit and is hereby dismissed.

30. In view of dismissal of the instant writ petition, IA No. CAN/1/2024 is also dismissed.

31. Interim order, if there be any, stands hereby vacated.

32. There shall be no order as to costs.

33. Urgent photostat certified copy of this order be given to the parties upon compliance of all legal formalities.

(Partha Sarathi Sen, J.)