

S/L 1
07.05.2025
Court. No. 19
Sourav

WPA 28810 of 2024

**Lante Mandal & Ors.
Vs.
State of West Bengal & Ors.**

*Mr. Tapan Kumar Rakshit
Mr. Surajit Roy*

...for the petitioners.

*Mr. Ashim Kr. Ganguly, Sr. Adv.
Mr. Tarak Karan*

...for the State.

1. The affidavit-of-service as filed on behalf of the writ petitioners is taken on record.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent nos. 2 to 5 for determination and disbursement of adequate amount of compensation for acquiring and dispossessing the writ petitioners from their Bastu land in C.S. Plot No. 780 in Mouza – Majherchar in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as ‘the said Act of 2013’ in short) along with other ancillary reliefs.
3. At the time of hearing, Mr. Rakshit learned advocate appearing on behalf of the writ petitioners duly assisted by Mr. Roy, learned advocate at the very outset submits before this Court that for a considerable length of time, the present writ petitioners as well as their predecessors in interest were residing in the aforementioned C.S. plot by constructing their house. It

is contended that since the functionaries of the respondent no. 1/State who are the respondent nos. 2 to 5 herein made an attempt to dispossess the writ petitioners from their lawful possession in respect of the aforementioned plot of land, the writ petitioners filed Title Suit No. 40 of 2018 before the learned Civil Judge, Junior Division, Kalyani, Nadia.

4. At this juncture, Mr. Rakshit draws attention of this Court to Page No. 31 of the instant writ petition being a copy of the certified copy of the order dated 28.01.2019 whereby and whereunder the said Court on an application for injunction restrained the respondents/authorities herein from making any attempt to evict and/or dispossess the present writ petitioners from the said plot of land and the said authorities were further restrained from demolishing the dwelling house of the plaintiffs.
5. It is submitted that challenging the said order of ad interim injunction, the respondents/authorities preferred Misc. Appeal No. 1 of 2009 before the learned Additional District Judge, Kalyani, Nadia and while disposing the said appeal, the said appellate court though vacated the said ad interim order of injunction as passed by the learned Civil Judge, Junior Division, Kalyani, Nadia, however, the said appellate Court directed the respondents/authorities to compensate the writ petitioners adequately and proportionately.

6. It is submitted on behalf of the writ petitioners that despite such order, the respondents/authorities, more specifically, the respondent nos. 2 to 5 have forcefully encroached the aforementioned plot by ousting the writ petitioners and by demolishing the residential house of the writ petitioners and further the aforementioned plot has been extensively used by the respondents/authorities without initiating any process for acquisition and for disbursement of compensation in terms of the said Act of 2013.
7. Per contra, Mr. Ganguly, learned AGP, appearing on behalf of the respondent/State duly assisted by Mr. Karan in course of his submission has submitted a report of District Magistrate and Collector, Nadia which is taken on record. On behalf of the State, attention of this Court is drawn to Page Nos. 26 and 27 of the said report. It is argued on behalf of the State that on conjoint perusal of the Page Nos. 26 and 27 of the said report, it would reveal that in Mouza – Majherchar in respect of C.S. Plot No. 780, notice under Section 5(1) of the Requisitioned Land (Continuance of Powers) Act, 1947 was published long back i.e., on 18.02.1949 and the entire acquisition and disbursement of compensation have been completed.
8. It is further submitted that over the acquired plot of land under the said notice, a bridge namely, Ishwar Gupta Setu has been constructed. It is further submitted that the writ petitioners is not entitled to any

relief since the instant writ petition is barred under the principle of *res judicata*. It is further submitted that the writ petitioners are not entitled to any relief as prayed for inasmuch as the writ petitioners are/were not the recorded owners of the C.S. Plot No. 780 which has been disputed by the learned advocate for the writ petitioners.

9. Considering the entire materials as placed before this Court and also considering the rival submissions of the learned advocates for the contending parties, it appears to this Court that by no stretch of imagination, it can be said that the instant writ petition is barred under the principle of *res judicata* inasmuch as the prayer of the plaintiffs (who are the writ petitioners before this Court) in Title Suit No. 40 of 2018 and the prayers as made in the instant writ petition are completely different and it further appears to this Court that the matter in issue as involved in Title Suit No. 40 of 2018 and the matter in issue as involved in the instant writ petition are quite distinguishable.
10. However, it cannot be overlooked that on behalf of the respondent/State, sufficient materials have been placed in respect of C.S. Plot No. 780 acquisition has been completed long back and it also cannot be denied that over the said acquired plot of land Ishwar Gupta Setu and/or its approached road have been constructed. However, considering the fact that the writ petitioners are claiming that they have been illegally evicted from

the aforementioned plot of land at the instance of the respondents, more specifically, the respondent nos. 2 to 5, this Court while disposing the instant writ petition directs the respondent no. 2 to consider the instant writ petition as a representation of the writ petitioners and after giving an opportunity of hearing and also after obtaining a report from the respondent no. 4/authority shall pass a reasoned order in accordance with law and shall communicate his reasoned order to the writ petitioners preferably by mail, if the mail details of the writ petitioners are provided to him at the time of hearing.

11. It is further ordered that the respondent no. 4 while making a field enquiry, shall ensure service of prior notices upon the writ petitioners as well as all other interested parties, if therebe any.
12. Before parting with, it is made clear that the entire exercise as indicated hereinabove is to be completed within 60 working days from the date of communication of the server copy of this order.
13. Liberty is given to the learned advocate for the writ petitioners to communicate the server copy of this order along with copies of the instant writ petition together with all annexures to the respondent no. 2 and the respondent no. 4 for their immediate compliance.
14. It is further made clear that before the respondent no. 2 all points are kept open.

15. With the aforementioned observations, the instant writ petition being **WPA 28810 of 2024** is disposed of.
16. 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.)