

03.07.2025
Sl. No. 20 to 24
g.b.
Court No.24

W.P.A. 28701 of 2022

Kartick Chandra Ghosh & Ors.
-Vs-
The State of West Bengal & Ors.

With

W.P.A. 28705 of 2022

Nitai Chandra Mondal & Anr.
-Vs-
The State of West Bengal & Ors.

With

W.P.A. 28712 of 2022

Ratanlal Karmakar & Ors.
-Vs-
The State of West Bengal & Ors.

With

W.P.A. 28714 of 2022

Subrata Patra & Anr.
-Vs-
The State of West Bengal & Ors.

With

W.P.A. 28716 of 2022

Sushanta Kumar Mondal & Ors.
-Vs-
The State of West Bengal & Ors.

Mr. Uttiya Ray
Ms. Anima Maiti
.....For the Petitioners
Mr. Soumitra Bandhopadhyay
Ms. Sukla Das Chandra
....For the State in WPA 28712 of 2022
Mr. T. M. Siddique
Ms. Sukla Das Chandra
....For the State in WPA 28714 of 2022
Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal
Mr. Subhasis Bandyopadhyay
....For the State in WPA 28716 of 2022
Mr. Ram Chandra Gucchhait
.....For the State in WPA 28701 of 2022 and WPA 28705 of
2022
Ms. Falguni Majhi
....For the Respondent Nos. 5 and 6
Ms. Manika Roy
Ms. Ankita Chowdhury
Mr. Atanu Sur
.....For the NHA

Petitioners of the instant writ petitions are
the land losers. Their lands were acquired by the

concerned authority Vide L. A. case No.2 (IV)/2004-05 pertains to L. R. Plot No. 58, Mouza – Alisha, P. S. – Burdwan, District – Purba Burdwan. It is the prayer of the petitioners that the petitioners are standing on the same footing that of the earlier writ petitioners being writ petition no. 15475 of 2021 etc. wherein by a common judgement a Co-ordinate Bench of this Court has disposed of 7 (seven) writ petitions on 30th of September, 2021 directing the concerned authority to take appropriate steps according to law.

Petitioners herein are aggrieved that the concerned authority has not taken necessary steps by virtue of decision of the Co-ordinate Bench of this Court Vide its order dated 30th September, 2021 by providing compensation in terms of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

By filing supplementary affidavit the petitioners have brought notice about the subsequent development in this matter. He

contended that the State respondents had preferred 14 (fourteen) appeals against the orders passed by the Co-ordinate Bench before the Hon'ble Division Bench Vide FMA 168 of 2023 etc. Vide a common judgement dated September 14, 2023, Hon'ble Division Bench has set aside the orders passed by the Single Bench in seven writ petitions and specifically directed the concerned authority to act vide paragraph 58 of the said judgement. Against the said observations the petitioners went upto the Hon'ble Apex Court by preferring Special Leave to Appeal (14 in number). The Hon'ble Supreme Court disposed of the said Special Leave to Appeal vide its judgement dated December 8, 2023 which is as follows:

“Upon hearing the council this Court made the following Order:

“1. We have heard learned counsel for the petitioners at a considerable length.

2. It may be seen from the self-speaking judgment of the High Court dated 14.09.2023 that the original records were summoned and on perusal thereof, the High Court has found as a matter of fact

that the possession of the acquired land was handed over to the beneficiary authority on 02.04.2007. It has further been found that some of the petitioners/land owners have received compensation.

3. Be that as it may, the petitioners are entitled to receive the compensation in accordance with law. In this regard, the High Court has in paragraph 58 of the impugned judgment granted them liberty to approach the competent authority. It is clarified that in case the compensation has not been paid to the petitioners, they shall be entitled to pursue the remedy in terms of the liberty granted by the High Court, referred to above.

4. The special leave petitions are, accordingly, disposed of with liberty to the petitioners to pursue such remedy.

5. All pending applications, if any, stand disposed of.”

The said order was further clarified by the Hon'ble Apex Court through an application for modification by passing an order dated 25th of January, 2024 which is as follows:

“1. The instant applications seek modification of para 2 of order dated 08.12.2023.

2. Having heard learned counsel for the applicants/petitioners and on carefully perusing the averments made in the above-mentioned applications, it is clarified that if the petitioners have not received any amount of compensation to which they are entitled in law, they may approach the competent authority for release thereof, and such application shall be considered in accordance with law.

3. With the aforesaid clarification, M.A. Nos. 140/146/2024 stand disposed of.

4. Consequently, IA NO.12465/2024 also stand disposed of.”

It is the contention of the petitioners that in terms of the direction of the Hon'ble Apex Court, the District Magistrate-cum-Collector, Purba Burdwan have already taken a decision in respect of the matters of earlier writ petitioners and have passed an order on 15th of March, 2024.

The learned advocate for the writ petitioners submits that as the present petitioners are the land losers and their lands were acquired by the same L. A. Case in respect of the same Mouza,

the present writ petitioners are also entitled to similar relief.

Learned advocate appearing on behalf of the respondent nos. 5 and 6 as well as the respondent nos. 1, 2 and 4 as well as the learned advocate appearing for the National Highway Authority (Respondent no.3) raised strong objection and submits that the issue has already been decided by the Hon'ble Apex Court. The present petitioners must have approached to the authority for their desire relief. It has been further argued on behalf of the respondent authorities that the prayer in the writ petition is not at all maintainable in the present situation.

Having heard the learned advocates for the parties it is admitted by all the parties that lands of the present petitioners were acquired vide L. A. case no. 2 (IV)/2004-05 in respect of same plots under Mouza – Alisha, P. S. – Burdwan under District – Purba Burdwan.

It is further admitted by the parties that initially there are orders of Hon'ble Single Bench of this Court in respect of the seven writ petitions.

Thereafter the State respondents as well as the requiring body has preferred 14 appeals and against a common judgement of 14 appeals by the Division Bench, the petitioners approached to the Hon'ble Apex Court.

It is also admitted by the parties that by virtue of the decision of the Hon'ble Apex Court, the observation in paragraph 58 of the Honb'ble Division Bench was upheld by the Hon'ble Apex Court. The respondent authorities also admitted the fact that the concerned District Magistrate and Collector, Purba Burdwan have already taken a decision in terms of the direction of the Hon'ble Apex Court.

This being the situation at present, it is true that in following the prayer of the petitioners regarding compliance by the State respondents in terms of the direction of the Hon'ble Single Bench of this Court actually no more exists. The order of the Hon'ble Single Bench has already been set aside by the Hon'ble Division Bench and the same has been upheld by the Hon'ble Apex Court.

In a writ petition, petitioners approached this Court; they have successfully demonstrated that they are land losers in L. A. Case initiated by the respondent authorities, they did not receive compensation. They may have approached this Court at a time when the order of the Honble Single Bench was in existence but truly now the order/direction of the Hon'ble Singh Bench is now set aside in term of the direction of the Hon'ble Division Bench as well as upheld by the Hon'ble Supreme Court.

Thus, in considering the merit of the matter this Court must not confine himself within the prayer of the writ petition rather mold the same for the purpose of providing relief to the petitioners in terms of the direction of the Hon'ble Apex Court that is the law of the land.

I further observed that the present petitioners are on the same footing and are the land losers like the earlier writ petitioners being WPA 15475 of 2021 etc.

Considering the same, I am of the view that the respondent authority must consider the prayer

of the petitioners in terms of the direction of the Hon'ble Apex Court, as mentioned hereinabove.

Under the above observation, the instant writ petitions are disposed of.

The petitioners are directed to approach the District Magistrate, Purba Burdwan being the respondent no.4 of the writ petition by making a fresh representation for their desire relief in terms of the direction of the Hon'ble Apex Court, as mentioned hereinabove.

I make it clear that the respondent no.4 shall consider the representation of the petitioners by passing a reasoned order within six weeks from the date of communication of this by giving a reasonable opportunity of being heard to all concerned.

The decision of the authority shall be communicated to the petitioners within two weeks thereafter.

It is clarified that this Court has only directed the petitioners to approach the authority and authority is duty bound to follow the dictum of the Hon'ble Apex Court which they have already

complied in terms of the disposal of earlier batch of writ petitions.

Since no affidavits have been exchanged between the parties, the allegations made in the writ petitions shall be deemed not to have been admitted.

The writ petitions stand disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of all necessary formalities.

(Subhendu Samanta, J.)