

Form No. J (2)

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**FMA 724 of 2025
IA NO: CAN/1/2023**

**The Chief Executive Officer, Kolkata Metropolitan Development
Authority & Ors.**

Vs.

Sushmita Guin & Ors.

in

**FMA 725 of 2025
IA NO: CAN/1/2023**

**The Chief Executive Officer, Kolkata Metropolitan Development
Authority & Ors.**

Vs.

Jagannath Jasawara & Ors.

For the Appellants

KMDA

: Mr. Kishore Dutta, Ld. Advocate General
Mr. Satyajit Talukder, Advocate
Mr. Arindom Chatterjee, Advocate

For the Respondents

: Mr. Supratim Dhar, Sr. Advocate
Mrs. Madhu Priya, Advocate
Mr. Dhananjay Nayak, Advocate

For the State

: Md. T. M. Siddiqui, Ld. A.G.P.
Mr. Suddhadev Adak, Advocate

Heard on

: 17.06.2025

Judgment on

: 17.06.2025

DEBANGSU BASAK, J.:-

1. Two appeals are taken up for analogous hearing as they emanate out of the same impugned judgment and order dated October 18, 2023 passed in two writ petitions being W.P.A. 13179 of 2021 and W.P.A. 11125 of 2019.
2. By the impugned judgment and order, learned Single Judge directed the Kolkata Metropolitan Development Authority to forward a proposal for acquisition of RS Dag no.2829 within mouja Kasba to the appropriate authority of the State Government forthwith and positively within a period of four weeks from the date of receipt of the order. Immediately upon receipt of such proposal, the appropriate authorities of the State were directed to initiate steps for acquisition of land in accordance with law and conclude the proceedings including payment of compensation to the writ petitioners and/or any person interested or who may be entitled to such compensation within the time period framed therein.
3. Learned Advocate General appearing for the appellants submits that, the heirs and legal representatives of the deceased Sadhan Sarkar do not possess any right, title and interest in respect of the immovable property concerned. He submits that, late Dwarika Prasad Jeswara did not sell the immovable property to late Sadhan Sarkar. Therefore the writ petition of the heirs and legal representatives of late Sadhan Sarkar was not maintainable.

4. Learned Advocate General relies upon **(2023) 12 Supreme Court Cases 756 (Delhi Development Authority versus Shyamo & Others.)** for the proposition that, the writ petitioners of W.P.A. 13179 of 2021 before the Writ Court did not possess any right, title, interest in respect of the immovable property, and therefore not entitled to any relief.
5. Learned Advocate General contends that, on the date of the so-called transfer by late Dwarika Prasad Jeswara to late Sadhan Sarkar, late Dwarika Prasad Jeswara did not possess any right, title, interest in respect of immovable property concerned.
6. State and private respondents are represented.
7. Two writ petitions were filed being W.P.A.11125 of 2019 and W.P.A. 13179 of 2021. Essentially, both the writ petitions sought issuance of writ of mandamus to command the authorities to acquire the plot of land and pay compensation to the writ petitioners.
8. Two writ petitions revolve around a part of original CS Plot no.2642 under C.S. Khatian No.924 within Kasba Mouja measuring about 1.44 acres. Several bata plots were curved out from original C.S Plot No.2642 during revisional settlement. Subject batta plot in the two writ petitions are R.S. plot no.2642/2829. This subject batta plot being RS Plot No.2642/2829 was subsequently utilized for the purpose of construction of Rashbehari Connector. No acquisition proceedings were initiated in respect of Plot No.1642/2829.

9. R.S. Plot No.2642/2829 was subsequently numbered as RS Plot no.2829.It measures about 22 decimals of land. Out of RS Plot No.2642/2829 measuring about 22 decimal of land, 12 cottahs were sold by a registered sale deed bearing no.907 for the year 1974 in favour of late Sadhan Sarkar by Dwarika Prasad Jeswara.
10. Heirs and legal representatives of deceased Dwarika Prasad Jeswara filed W.P.A. 11125 of 2019 while the heirs and legal representatives of Sadhan Sarkar filed W.P.A.13179 of 2021. Both the sets of writ petitioners claimed that, they are entitled to compensation on account of non acquisition of their share immovable property concerned.
11. Learned Single Judge, noted such facts in details. Learned Single Judge also noted that the Special Land Acquisition Collector by a Memo No. 617(1) dated September 11, 2018 requested the Joint Secretary, Estate Unit of KMDA to ascertain whether the R.S. plot No.2829 was utilized by KMDA and if utilized the proposal for payment of compensation. Learned Single Judge noted that, by writing dated October 4, 2018 KMDA Authorities informed the Special Land Acquisition Officer, 24 Parganas (South) that survey was done on February 13, 2017 and it was found that R.S. Dag no.2642/2829 of Kasba Mouja was used by KMDA for the construction of Rashbehari Connector. KMDA Authorities made a proposal without payment of compensation.

12. Learned Single Judge also noted that, attempts were made by the authorities both at the side of the KMDA as well as the State endeavouring to pay compensation to land losers of R.S. Dag No.2642/2829. No acquisition proceeding was initiated and no compensation was consequently paid.
13. Fact that, R.S. Pot No. 2642/2829 which was subsequently numbered as R.S. Plot No.2829 was utilized for the purpose of construction of Rashbehari Connector stands established. So also the fact that, no compensation was paid in respect of such land stands established.
14. Appellants before us seek to raise title dispute in respect of the immovable property concerned. Immoveable property consist of 22 decimals of land. Late Dwarika Prasad Jeswara is acknowledged as the owner of the 22 decimals of land. The contention of no title, therefore, so far as heirs and legal representatives of Dwarka Prasad Jeswara is concerned is of no substance. They are the writ petitioners in W.P.A. 11125 of 2029.
15. So far as the heirs and legal representatives of Sadhan Sarkar, we find from the records that late Dwarika Prasad Jeswara during his lifetime sold 12 cottahs of land out of the subject plot by a registered sale deed bearing no. 907 for the year 1974 to late Sdhan Sarkar. Heirs and legal representatives of late Sadhan Sarkar are the writ petitioners in

W.P.A. 13179 of 2021. Their title in respect of such 12 cottahs cannot be disputed.

16. There are no disputes amongst the heirs and legal representatives of Dwarika Prasad Jeswara since deceased and Sadhan Sarkar, since deceased, with regard to their respective entitlements in respect of R.S. Plot Nos. 2642/2829 corresponding Plot No. 2829.
17. We find that there are no title disputes to be considered or looked into with any seriousness.
18. In **Shyamo & Ors. (Supra)** there were, however, title disputes with regard to the property concerned. In such context, it was held that High Court erred in issuing writ without deciding the ownership of title of the original writ petitioner. Such ratio is not attracted in the facts and circumstances of the present case.
19. In view of the discussions above, we find no merit in the present appeals.
20. **F.M.A. 724 of 2025** and **F.M.A. 725 of 2025** along with all connected applications are dismissed without any order as to costs.

(Debangsu Basak, J.)

21. I agree.

(Md. Shabbar Rashidi, J.)