

Court No. 2
07.02.2025
(Item No. 7)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 29201 of 2023

Ramjan Ali Mondal & Anr.
VS
The State of West Bengal & Ors.

Mr. Shamik Bagchi
.... For the petitioner
Mr. Pritam Choudhury
Mr. Satyam Mukherjee
.... For the State respondents

Affidavit of service is already on record.

Mr. Shamik Bagchi, learned advocate appears
for the petitioner.

Mr. Pritam Choudhury, learned advocate
appears for the State respondents.

Referring to **paragraph 2** from the writ petition
learned counsel for the petitioners submits that, the
petitioners are the absolute owners of the subject
land. The petitioners complain of an alleged
encroachment of a portion of their land by the
Agricultural department, as the boundary wall of the
relevant Agricultural College has been constructed
upon encroachment of a portion of the petitioners'
land. The petitioners have submitted their
representation dated **September 18, 2023, annexure**
P-2 at **page 15** to the writ petition, but the same has
not yet been disposed of.

Learned State counsel submits that, on the basis of a wrong recording on the land records the petitioners claimed title over the subject land and therefore the allegation of encroachment is totally baseless and untrue. He further submits, on instruction that, the subject land has already been acquired by the State on which the boundary wall has been constructed and the actual land losers have already received compensation arising out of such acquisition process.

Per contra Mr. Shamik Bagchi, learned advocate appearing for the petitioners denied and disputed the submissions of the State. He further submits that no acquisition was held and it is a clear case of encroachment.

In view of the above, the following directions are passed:

- (a) The **respondent No. 5** shall positively within a period of **two weeks** from the date of communication of this order shall furnish the relevant information with copies of supporting records and documents to the petitioners, if it is found that the subject land has already been acquired and compensation has been paid to the land losers.

- (b) The respondent No. 5 upon issuing a prior notice to the petitioners and the respondent No. 3 shall cause a physical inspection on the alleged encroachment in their presence and shall prepare a report with the necessary sketch map of alleged encroachment, if any and shall file copies of the report with the sketch map, if any to the petitioners and the respondent No. 3. This exercise shall be carried out by the **respondent No. 5** positively within a period of **four weeks** from the date of communication of this order.
- (c) In the event, it is found from the land records that the subject land has not yet been acquired and there has been an encroachment, the B.L. & L.R.O. shall immediately furnish the report with the sketch map before the jurisdictional **Special Land Acquisition Officer** positively within a period of **two weeks** from the date of the said inspection to be carried out by the respondent No. 5.
- (d) After receiving the report and the relevant records with regard to acquisition, if any, the jurisdictional **Special Land Acquisition Officer** upon issuing a prior hearing notice

to the petitioners and the respondent No. 3 and after granting them an opportunity of hearing shall decide the issue once for all and conclusively by passing a reasoned order in accordance with law.

This exercise shall be carried out and completed by **jurisdictional Special Land Acquisition Officer** positively within a period of **six weeks** from the date of receiving the report from the respondent No. 5 along with land records. The reasoned order then shall be communicated to the petitioners and the respondent No. 3 positively within a period of **one week** from the date of the said reasoned order to be passed.

- (e) In the event, the encroachment is confirmed then the appropriate State authority shall take all necessary and consequential steps either to remove the encroachment in accordance with law positively within a period of **four weeks** from the date of the said reasoned order to be passed by the **jurisdictional Special Land Acquisition Officer** or to take steps by the **appropriate jurisdictional State authorities** to compensate the actual land losers in

respect of the subject land by exercising **Direct Purchase Policy**, if the acquisition proceeding has not been initiated already and pay the compensation in accordance with law to the actual land losers as expeditiously as possible but positively within a period of **eight months** from the date of the said reasoned order to be passed by the **jurisdictional Special Land Acquisition officer**.

It is made clear that, this Court has not gone into the merits of the claims and rival claims of the parties. The parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the **jurisdictional Special Land Acquisition Officer**.

It is further made clear that, this order shall not create any right or equity in favour of the petitioners, if the petitioners do not succeed to their respective claims before this jurisdictional Special Land Acquisition Officer strictly in accordance with law.

It is also made clear that if record shows that the compensation has already been paid to the actual land losers at the relevant point of time, then there

shall be no further question of payment of any compensation to the petitioners.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 29201 of 2023** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)