

Item No.2
01.09.2025
Court. No. 1
B.Pal/GB

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

MAT 58 of 2025
with
IA NO:CAN 1 of 2025

ANITA PAUL AND ORS
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sandip Mandal, Advocate
Mr. Amit Saha, Advocate
Mr. Abhilash Mittal, Advocate
... for the Appellant.

Mr. Nabankur Paul, Advocate
Ms. Rima Sarkar, Advocate
...for the State.

Mr. Raja Saha, Advocate
Mr. Subham Chanda, Advocate
...for SJDA

1. This is an intra court appeal. The scope of interference by the appellate court is microscopic. Unless the appellate court finds perversity and/or patent illegality on the face of the record in the order impugned, the appellate court should resist itself from interfering with the findings of the learned Single Judge. By the order impugned, the learned Judge recorded that the Land Acquisition Department had actually

examined the claim of the appellants for compensation in lieu of acquisition of land and rejected the same on the grounds stated in the order passed by the authority.

2. His Lordship was of the view that the High Court in exercise of power under Article 226 of the Constitution of India had the jurisdiction to try issues of fact and law on certain judicial principles. Rejection of an application under Section 226 of the Constitution of India would be justified when the dispute or the claim required an elaborate and detailed ascertainment of facts and appreciation of evidence. His Lordship relied on a decision of the Hon'ble Apex Court in the matter of ***Smt. Gunwant Kaur and Others vs. Municipal Committee, Bhatinda and Others*** reported in **(1969) 3 SCC 769**. His Lordship held that in view of the dispute and rival claims, there was no scope for determination of the lis involved. The claim for compensation, according to His Lordship required an elaborate investigation into the title of the predecessor-in-interest of the appellants, which was not permissible in the said proceeding. Accordingly, the application was dismissed and His Lordship permitted

the appellants to proceed in accordance with law before the appropriate forum. His Lordship was also careful to record that the merits of the claim of the appellants has not been gone into.

3. The appellants are the successors of Narayan Chandra Paul, who allegedly became the owner of part of the plots acquired by the State of West Bengal. SJDA was the requiring body.
4. Learned advocate for the appellants has drawn the attention of the Court to a letter written by the Chief Executive Officer, Siliguri Jalpaiguri Development Authority (SJDA) by which the Principal Secretary, Urban Development Department had been informed that 51 persons had submitted applications for allotment of land and they did not accept the rehabilitation package of SJDA. Necessary action was solicited from the appropriate Government. The Collector, Land Acquisition Department, Government of West Bengal by a communication dated July 23, 2014 furnished the details of the persons who were claiming compensation in respect of acquisition of land. The name of the appellants' predecessor-in-interest appeared

in that letter. The SJDA informed the special land acquisition officer, Jalpaiguri by another letter dated August 14, 2014, the list of those persons who were considered as the actual land owners, and who had claimed compensation. The District Magistrate, Darjeeling informed SJDA on January 4, 2018 that upon enquiry and verification, the claim for compensation by Narayan Chandra Paul as an awardee was not accepted as his title over the subject land had not been established.

5. It appeared that, Narayan Chandra Paul had been defrauded by someone posing as Tahera Khatun and it was advised that the dispute could be only resolved in a civil suit.
6. Learned advocate for the appellants submits that the communications which have been referred to hereinabove, recognized Narayan Chandra Paul's claim all through and the appellants should not be blamed or held responsible for the fraudulent activity of Tahera Khatun. As per the report of the authority, Tahera Khatun sold more than she had actually possessed, which itself indicated that the appellants' predecessor-in-interest had rightful claim over the property.

The acquisition process was not complete when Narayan Chandra Paul purchased the property.

7. Thus, the predecessor-in-interest of the appellants could not be treated as a post vesting transferee. Reliance has been placed on certain documents to show that mutation had been effected in the name of the predecessor-in-interest of the appellants. The decision of the District Land and Land Reforms Officer, Darjeeling was also assailed on the ground that the findings were contrary to the record and the right of Narayan Chandra Paul had not been decided. Instead, the defect in the transfer effected by Tahera Khatun was the foundation for rejection of the claim of Narayan Chandra Paul.
8. The submissions made by the learned advocate itself creates a cloud over not only Tahera Khatun's right to sell the property, but also on the right, title and interest of Narayan Chandra Paul in respect of the land in question.
9. The State of West Bengal filed an affidavit before the learned Judge, inter alia, contending that the lands acquired corresponded to L.R. Plot No.496 and L.R.

Plot No.497. Those plots had been validly acquired by the State of West Bengal and the acquisition proceedings were completed long back. The land losers/awardees had also received compensation in entirety. L.R. Plot No.496 measured about 0.46 acres and L.R. Plot No.497 measured about 0.24 acres. Out of 46 decimals in L.R. Plot No.496, 23 decimals was recorded in the name of one Tahera Khatun and the remaining 23 decimals was recorded in the name of Moti Rishi. Similarly, out of 24 decimals in L.R. Plot No.497 Tahera Bibi was the recorded owner of 12 decimals and the balance 12 decimals was recorded in the name of Moti Rishi. Tahera sold her 8 annas share in the said plots i.e. 23 in L.R. PlotNo.496 and 12 decimals in L.R. Plot No.497, by two separate sale deeds to Beni Madhab Sikder and Smt. Amiya Bala Sikder. Those sales took place by registered sale deeds nos.739 of 1984 and 741 of 1984. The said purchasers subsequently sold the land to Anil Sarkar and Jyotish Sarkar by executing two separate sale deeds in 1985. Anil Sarkar sold his share to Smt. Dipti Guin in 1992. 0.23 acres of land in L.R. Plot No.496 and 0.18 acres in

L.R. Plot No.497 had been acquired for the purpose of construction of 3rd Mahananda Bridge vide L.A Case No.1/5 of 2001-2002. Dipti Guin and Jyotish Chandra Sarkar who were the respondents in the writ petition had received compensation for their entire share in the said plots and the other recorded owner of part of the said plot, Moti Rishi also received his compensation when his plot was acquired vide another L.A. Case.

10. According to the authorities, upon an enquiry and investigation, it transpired that the sale of the plot by Tahera Khatun to Jogesh Barman and in turn the sale of the land to Narayan Chandra Paul by Jogesh Barman sometime in 2002, were void.
11. Under such circumstances, the claim of the appellants was denied.
12. The factual analysis and the backdrop which led to the filing of the writ petition have been discussed hereinabove. The appellants raise a claim to such compensation on the ground of being the owners by inheritance, pursuant to the purchase in 2002 by Narayan Chandra Paul. This is a disputed question which needs further investigation into the title of the land owner. This could not be decided

in the writ petition. Thus, His Lordship was rightly of the view that the remedy of the writ petitioners/appellants was before the another forum. The document at page no.35 does not help the case of the appellants in view of the fact that the Collector, Land Acquisition Department categorically specified the names of those persons who had received the compensation in the process of acquisition, namely, Dipti Guin, Jyotish Chandra Sarkar and Moti Rishi.

13. The contention of the appellants was that those persons had not mutated their names in the record of rights and hence, there was an underhand dealing with the Government. This issue also cannot be decided in this proceeding.

14. Under such circumstances, this court does not find any reason to interfere with the order of His Lordship. His Lordship had already granted liberty to the appellants to proceed in accordance with law and His Lordship has restrained from deciding the merits.

15. The observations made by us hereinabove are restricted to the disposal of the appeal. It is made clear that we have not decided the

right and title of the appellants. The only issue decided is that, we do not find any illegality, arbitrariness and discrimination in the decision making process of the authority.

16. Accordingly, the appeal is disposed of without any interference with the order impugned.

17. With the disposal of the appeal, CAN 1 of 2025 is also disposed of.

18. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Prasenjit Biswas, J.)