

Item No.3
01.09.2025
Court. No. 1
B.Pal/GB

Calcutta High Court
In the Circuit Bench at Jalpaiguri

MAT 59 of 2025
with
IA NO:CAN 1 of 2025

DHIREN NANDI
VS
STATE OF WEST BENGAL AND ORS.

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

Mr. Hirak Barman, Advocate
Mr. Nabankur Paul, 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.

2. By the order impugned, the learned Judge recorded that the Land Acquisition Department had actually examined the claim and had rejected such claim for compensation with proper grounds.
3. His Lordship was of the view that the High Court, in exercise of power under Article 226 of the Constitution of India, had the discretion to try issues of fact and law on certain judicial principles. Rejection of a writ petition would be justified when either 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 was of the view that, as the dispute arose out of rival claims to ownership of land, 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 appellant, which was not permissible in the said proceeding. Accordingly, the application was dismissed and His Lordship permitted the appellant 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 appellant has not been gone into.

4. The appellant claims to be the owner of part of the plots acquired by the State of West Bengal. SJDA was the requiring body.
5. Learned advocate for the appellant has drawn the attention of the Court to a letter dated July 27, 2012 written by the Chief Executive Officer, Siliguri Jalpaiguri Development Authority (SJDA). The Principal Secretary, Urban Development Department had been informed that 51 persons had submitted applications for allotment of alternative land as they did not accept the rehabilitation package of SJDA. Necessary action was solicited from the appropriate Government. Thereafter, 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 for acquisition of land. It is submitted that the name of the appellant appeared in that letter. The SJDA informed the special land acquisition officer, Jalpaiguri by another letter dated September 9, 2014, the details of those persons who claimed compensation. The name of the appellant appeared in the said list. By another communication, SJDA was asked to furnish information with regard to the list of persons who had claimed compensation. The list included the appellant. The District Magistrate, Darjeeling informed SJDA on January 4, 2018 that, upon enquiry and verification, the claim for compensation of appellant as an awardee was not established as his right over the subject land had not been established.

6. It appears that the appellant had been defrauded by someone posing as Tahera Khatun and it was advised that the dispute could be only resolved in a civil suit.
7. Learned advocate for the appellant submits that the communications which have been

referred to hereinabove recognized the appellant's claim all through and the appellant 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. That itself indicated the fact that the appellant had a rightful claim over the property, even in 2002. The acquisition process had not been completed when the appellant purchased the property.

8. Thus, the appellant cannot be treated as a past vesting transferee. Reliance has been placed on certain documents to show that mutation had been effected in the name of the appellant. The decision of the District Land and Land Reforms Officer, Darjeeling is also assailed on the ground that the findings were contrary to the record and the right of the appellant had not been decided. Instead, the defect in the transfer effected by Tahera Khatun was the foundation for rejection of the claim of the appellant.

9. The submissions made by the learned advocate itself create a cloud over the right,

title and interest of the appellant, as also his vendor.

10. The State of West Bengal filed an affidavit before the learned Single 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 respectively. 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. They were the recorded owners of the plots. Moti Rishi also received his compensation when his plot was acquired vide another L.A. Case.

11. According to the authorities, upon an enquiry and investigation, it transpired that the sale of the plot in 2002 by Tahera Khatun to Jogesh Barman and in turn the sale of the land to the appellant by Jogesh Barman was void.

12. Under such circumstances, the claim of the appellant was denied.

13. The factual controversies and the backdrop of the matter, leading to rejection of the claim and filing of the writ petition are discussed hereinabove. The stand of the authority and evidence as to payment of compensation to the owners, is available. The appellant raised a claim on the ground of being the owner pursuant to the purchase in 2002. This is a disputed question which needs further investigation into the title of the land owner which cannot be decided in the writ petition.

14. Thus, His Lordship was of the view that the remedy of the writ petitioner/appellant was before the appropriate forum. The document at page no.35 does not help the case of the appellant 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.

15. The contention of the appellant that such persons had not mutated their names in the record of rights and hence, there was an underhand dealing with the Government is

again a matter, which cannot be decided in this proceeding. Moreover, mutation does not create title.

16. 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 appellant to proceed in accordance with law and His Lordship has refrained from deciding the merits.

17. The observations made by us hereinabove are restricted to the disposal of the appeal. It is made clear that we have not decided the title of the appellant. The only issue decided is that in exercise of power of judicial review, we do not find any illegality, arbitrariness and discrimination in the decision making process of the authority in rejecting the claim. The title has not been decided. The appellant had been advised long ago to file a civil suit.

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

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

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

(Shampa Sarkar, J.)

(Prasenjit Biswas, J.)