

OD-9

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

WPO/349/2019

SANJAY KUMAR BAJORIA

VS

THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE BIVAS PATTANAYAK

Date: 15th January, 2025

Appearance:
Mr. Arindam Banerjee, Sr. Adv.
Mr. Ashis Kr. Mukhrjee, Adv.
Mr. Saunabh Prosad, Adv.
Mr. Avijit Kar, Adv.
... for the petitioner.

The Court: This writ petition has been filed under Article 226 of the Constitution of India seeking for cancelling, rescinding and/or revoking of the order dated 8th April, 2019 passed by First Land Acquisition Collector, Kolkata being respondent no. 2, herein.

Despite notice, none appears on behalf of the said State-respondent.

The petitioner's case is as follows:

The petitioner along with his family members are the co-owners in respect of property comprised within Premises No. 255A and 255B Rabindra Sarani, Kolkata – 700 007 since 1969. A flat situated on the North Eastern side of the first floor measuring an area of 800 sq. ft. more or less within Premises No. 255A Rabindra Sarani, Kolkata – 700 007

was requisitioned for the purpose of Home Police Department and the possession of the said flat was duly taken over from the then co-owners of the said premises. The monthly rent compensation of the said flat was fixed at Rs. 335/- per month under Memo No. 53-P1/P4/R/3/71 dated 11th January, 1974. By an order bearing no. 316-Regn./RC-6/2001 dated 30th January, 2003, the said flat was de-requisitioned by the Deputy Secretary, Land & Land Revenue Department, Requisition Branch, respondent no. 5 and vacant possession of the said flat was directed to be restored to the co-owners including the petitioner herein. Since the vacant possession of the flat was not handed over, a writ petition was filed being W.P. No. 159 of 2005 wherein a direction was issued for restoration of the possession of the said flat. Pursuant thereto, finally the vacant possession of the said flat was restored to the petitioner under restoration certificate dated 3rd July 2009. By letter under Memo 90(4) L.A dated 5th February, 2010, the respondent no. 1 requested the petitioner and other co-owners to submit rent compensation bill in duplicate. In reply to the aforesaid letter on 24th February, 2010, the petitioner prayed for arrears of enhanced part of rent compensation from November, 1973 to February, 1992 on finalization of enhanced rent compensation as per law; arrears dues of enhanced rent compensation as per law from March 1992 up to the date of de-requisition order dated 30th January, 2003; interest on delayed payment of rent compensation or enhanced rent compensation payable up to January, 2003 till date of payment and occupier's share of Municipal tax. Since payment in respect of rent compensation was not made, a letter of reminder was issued on

10th January, 2013 to respondent no. 2. Ultimately, the petitioner was constrained to file a writ petition being W.P No. 52 of 2018 for realization of arrears of enhanced part of rent compensation, interest on delayed payment and occupier's share of municipal tax. The said writ petition was disposed of directing the respondent no. 2, First Land Acquisition Collector, Kolkata to issue a fresh notice granting opportunity of hearing to the petitioner and pass a reasoned order. Pursuant to such direction, the respondent no. 2 passed an order on 8th April, 2019 calculating the amount payable to the petitioner to the tune of Rs. 4,05,924/-. Being aggrieved by such order, the petitioner has preferred the present writ petition.

On 7th April, 2022, after hearing the learned advocates for the petitioner as well as State respondents, an order was passed in terms of prayer (g) of the petition appointing a Special Officer/ Special Referee to assess the outstanding rent compensation, *mesne* profits and other charges in presence of both parties or their authorized representative upon giving reasonable opportunity of hearing to both the parties and liberty was also granted to place all relevant documents before the Special Referee for consideration.

In compliance to the aforesaid order passed by this Court, the Special Referee/ Special Officer filed its report. It is placed on record that there is no exception to the report of the Special Referee filed by the said respondents.

As per the aforesaid report, the total outstanding dues towards occupation charges/ *mesne* profit is calculated at Rs. 20,40,086/-.

Mr. Arindam Banerjee, learned Senior Advocate appearing for the petitioner informs the Court that the amount calculated by respondent no. 2 i.e. Rs. 4,05,924/- has been received by the petitioner after deduction of TDS. He also submits that the petitioner is entitled to the balance amount of Rs. 16,34,162/- (Rs. 20,40,086 less Rs. 4,05,924/-). It is informed that an appeal has been preferred by the State respondents against the order passed by this Court on 7th April, 2022. However, there is no order of stay passed by the Appellate Court.

Considering the report of the learned Special Referee/Special Officer and submissions advanced as above, it is found that the petitioner is entitled to an amount of Rs. 16,34,162/- together with interest at the rate of 8 per cent per annum from the date of accrual of the dues till the date of the actual payment.

Accordingly, the writ petition being WPO/349/2019 is disposed of directing respondent no. 2, the First Land Acquisition Collector, Kolkata to disburse the amount of Rs. 16,34,162/- together with interest at the rate of 8 per cent per annum from the date of accrual of the dues till the date of the actual payment in favour of the petitioner within a period of two months from the date of communication of this order.

The order dated 8th April 2019 passed by the respondent no.2, the First Land Acquisition Collector, Kolkata is hereby cancelled.

Learned Advocate for the petitioner is directed to communicate this order to respondent no. 2, First Land Acquisition Collector, Kolkata.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, upon compliance of all the requisite formalities.

(BIVAS PATTANAYAK, J.)

JM