

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Present :-

The Hon'ble Justice PARTHA SARATHI SEN

WPO 624 of 2008

IA NO: GA/2/2008 (Old No: GA/2195/2008)

Supriya Dutta

-Vs-

The State of West Bengal and Ors.

For the Petitioner:	Mr.Kushal Chatterjee, Adv., Mr. Biswajyoti Mitra, Adv.,
For the State:	Mr. Lalit Mohan Mahata, Ld. AGP., Mr. Ziaul Haque, Adv.
For respondent/ KMDA:	Mr. Kishore Datta, Senior Adv., Mr. Satyajit Talukdar, Adv., Mr. Avishek Guha, Adv. Mr. Subhajit Das, Adv.
Hearing concluded on:	09.09.2025.
Judgment on:	17.09.2025.

PARTHA SARATHI SEN, J. : –

1. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities prohibiting them to take possession and/or creating any disturbance and/or causing any interference with regard to the writ petitioner's possession in respect of the land being RS Plot nos. 3777, 3775 and 3788 along with other ancillary reliefs.
2. At the time of hearing Mr. Chatterjee, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this

Court to page nos. 20a, 21a and 22a of the instant writ petition being the copies of three RS ROR in respect of the aforementioned three plots of land as stood in the name of one Prafulla Kumari Dutta.

3. Drawing attention to paragraph no.9 of the instant writ petition it is submitted by Mr. Chatterjee that it is the specific case of the writ petitioner that the said three plots of land were never vested and thus those three plots of land were never in possession either with the State and its instrumentalities or with the KMDA authority, the requiring body.

4. It is submitted by Mr. Chatterjee that it is the further case of the writ petitioner that the writ petitioner has come to know that the KMDA Authority has hung up a sign board in the name of one M/s Haldiram over the said three plots of land of the writ petitioner which was however pulled down.

5. It is contended on behalf of the writ petitioner that it is further case of the writ petitioner that in respect of the said three plots of land no acquisition proceeding was ever initiated. It is further submitted by Mr. Chatterjee that from page no. 27 of the instant writ petition being a copy of memo dated 02.09.1996 it would reveal that under the cover of the said memo dated 02.09.1996 the KMDA authority issued a notice to the said Prafulla Kumari Dutta asking her to furnish original deed and other related documents in respect of the structure as standing on the said three plots of land which according to the writ petitioner was duly complied with.

6. Drawing attention to page no.28 of the instant writ petition it is further submitted by Mr. Chatterjee that under cover of a memo dated 06.03.1999 the KMDA authority intimated the said Prafulla Kumari Dutta that it has decided to bring those three plots of land under primary notification under Section 4 of Act II of 1894. It is further submitted by Mr. Chatterjee that it is the specific case of the writ petitioner that at no material point of time, in respect of the aforementioned three plots of land, any notice under Section 3 of Act II of 1948 was published and gazetted.

7. Drawing attention to page nos. 29 and 30 of the instant writ petition being a copy of the information slip as filed by one Babu Dutta, the Superintendent of LA Office, Calcutta intimated that the aforementioned three plots in Mauza Kasba were not affected by any LA proceeding in between the period 1984 to 16.05.1995. It is further submitted by Mr. Chatterjee that even from page no.31 of the instant writ petition it would reveal that by issuing a memo dated 07.01.2001 Collector, South-24-Parganas has passed an order for cancellation of a mistaken order of requisition under West Bengal Act III of 1984 in respect of certain portions in RS Dag nos.3775 and 3777 and in respect of the entire portion of RS Dag no. 3788.

8. At this juncture Mr. Chatterjee draws attention of this Court to the affidavit-in-opposition as filed by the respondent/State. Drawing attention to paragraph 6(c) of the said affidavit-in-opposition it is submitted by Mr. Chatterjee though it is the specific averment of the respondent/State that

in respect of the aforementioned three plots of land notice under Section 4(1a) of Act II of 1948 was published on 17.10.1974 however, from page no.31 of the instant writ petition being a copy of the memo dated 07.01.2001 it would reveal that the notice under Section 3 of the said Act-II of 1948 was served upon the land losers in between 1978 and 1984. It is thus submitted by Mr. Chatterjee that in view of such discrepancy there cannot be any hesitation to hold that the alleged acquisition under Act II of 1948 is nothing but a myth.

9. Drawing attention to page no.14 of the affidavit-in-opposition as filed on behalf of the respondent/State it is further submitted by Mr. Chatterjee that though in such affidavit-in-opposition a copy of the notice under Section 4(1a) of Act II of 1948 was disclosed however, the respondent/State has miserably failed to produce any notification of requisition under Section 3 of Act II of 1948. It is thus submitted by Mr. Chatterjee that in absence of any valid requisition, there cannot be any valid acquisition within the meaning of Section 4(1a) of Act II of 1948.

10. In his next fold of submission Mr. Chatterjee draws attention of this Court to page no.59 of the affidavit-in-reply as filed by the writ petitioner against the affidavit-in-opposition as filed by the KMDA authority. It is thus submitted that from page no.59 of such affidavit-in-reply being a copy of the memo dated 22.05.1997 as issued by the Secretary, Land and Land Reforms Department, Land Acquisition (II) Branch informed the secretaries of the various departments of the Government of West Bengal to intimate his department as to whether all requiring departments are at

all interested in acquisition of land in which possession has been taken under Section 3(1) of Act II of 1948. It is submitted by Mr. Chatterjee that in all probabilities on account of such memo dated 22.05.1997 the Collector, South-24-Parganas under cover of its memo dated 07.01.2021 passed an order for cancellation of requisition in respect of the aforementioned three plots of land, a copy of which is available at page no.31 of the instant writ petition.

11. At this juncture Mr. Chatterjee took me to page nos. 14 to 29 of the affidavit-in-reply as filed by the writ petitioner against the affidavit-in-opposition of the respondent/State. It is submitted that from the said pages it would reveal that in a proceeding under Section 44 (2 a) of West Bengal Estate Acquisition Act, 1953 only Khatiyani no.1627 was corrected however, the other khatiyans being Khatiyani nos. 1153, 834 and 689 in which the said three plots were there were not touched.

12. In course of his submission Mr. Chatterjee further draws attention of this Court to page nos. 32 to 37 of the affidavit-in-reply as filed by the writ petitioner against the affidavit-in-opposition of the respondent/State being a copy of the deed of license dated 22.05.2003. It is submitted further that from internal page no.2 of the said deed of license it would reveal that schedule mentioned land of the said license deed which is part and parcel of the aforementioned three plots of land are still in the process of requisition.

13. Mr. Chatterjee further draws attention of this Court to page no.47 of the said affidavit-in-reply being internal page no.9 of the judgement dated

22.12.2014 as passed by the jurisdictional Civil Judge, Senior Division, Alipore in ***Title Suit No.90 of 2009 (Haldiram vs. KMDA Authority and Ors.)*** wherein it is the defence case that the title to the property of the defendant (State) is yet to be cleared by the land acquisition department.

14. Mr. Chatterjee then took me to the affidavit-in-opposition as filed by the KMDA. Drawing attention to page no.12 of the said affidavit-in-opposition it is submitted that from the copy of the indenture dated 22.01.1966 it would reveal that the said indenture discloses the purpose of acquisition which is contrary to the said notification under Section 4 (1a) of Act II of 1948 and further the KMDA authority by entering into the agreement with the M/s Haldiram has frustrated the very purpose of alleged acquisition.

15. In course of his submission Mr. Chatterjee further draws attention of this Court to the affidavit-in-opposition as filed by the respondent/KMD Authority. Drawing attention to paragraph no. 4C of the said affidavit-in-opposition of KMD Authority it is submitted by Mr. Chatterjee that in such affidavit-in-opposition though an averment was made regarding the publication of notice under Section 4(1)(a) of act II of 1948 but there is no whisper about the publication of any notice under Section 3 of Act II of 1948.

16. It is further contended by Mr. Chatterjee that on perusal of page nos. 16 to 25 of the affidavit-in-opposition as filed on behalf of the respondent/State it would reveal that the State has disclosed a copy of RS

ROR dated 01.11.2000 wherefrom it appears that the aforementioned plot nos. 3777, 3775 and 3788 were recorded in Khatiyani no.689.

17. At this juncture attention of this Court is also drawn to page no.26A of the affidavit-in-opposition of the respondent/State. It is submitted by Mr. Chatterjee that from the said page it would reveal that from original Khatiyani no. 1152, a khanda khatiyani (part khatiyani 2416) was created and compensation was disbursed to the recorded raiyat, Kalpana Moitra who at no material point of time was the owner of 0.31 decimals of land in plot no.3775.

18. Drawing further attention to paragraph no. 6C of the affidavit-in-opposition of the State it is further submitted by Mr. Chatterjee that like respondent/KMDA, the respondent/State though stated much about publication of notice under Section 4(1a) of Act II of 1948 but in the affidavit-in-opposition of the State also there was no whisper regarding publication of notice under Section 3 of Act II of 1948.

19. In his next fold of submission Mr. Chatterjee contended that life time of Act II of 1948 (un-amended) came to an end on 31.03.1994. It is further submitted by Mr. Chatterjee that in the case in hand the acquisition started in 1973-74 and according to the respondent/State notice under Section 4(1)(a) was published on 17.10.1974 and the award under Section 11 of the said Act of 1894 was published in the year 1982-1984.

20. It is thus submitted that in view of such chronology of events, by no stretch of imagination it can be said that provision of Section 9 (3B) of Act

I of 1894 (as amended) has any manner of application in the alleged acquisition proceeding.

21. Placing his reliance upon the reported decision of [***The Collector of Kamrup and Ors. vs. 1. Kamakhya Ram Barooah and Ors., 2. Umakanta Goswami and Ors. and 3. Sushila Bala Debi and Ors.***] reported in **AIR 1965 SC 1301** it is submitted by Mr. Chatterjee that in the said reported decision it has been categorically held by the Hon'ble Supreme Court that there cannot be any valid acquisition without valid requisition as contemplated as per the provision of Assam Land (Requisition and Acquisition) Act, 1948 which according to Mr. Chatterjee is almost similar to Act II of 1948.

22. Placing his reliance upon the decision in the case of ***Samarendra Nath Paul and Ors. vs. Collector, Hooghly and Addl. District, Magistrate and Ors.*** reported in **1996 SCC Online Cal 223 : (1997) 1 Cal LJ 370** it is argued by Mr. Chatterjee that a division bench of this Court while considering the provisions of Section 3 of Act II of 1948 came to a finding that the compliance of the provision of Section 3 of Act II of Act 1948 is mandatory in nature.

23. In course of his argument Mr. Chatterjee again places his reliance upon the affidavit-in-opposition of the KMDA. It is argued on behalf of the writ petitioner that from page nos. 12 to 15 being a copy of the agreement dated 22.01.1996 as has been executed by and between the Governor of West Bengal and KMDA (then CMDA) it would reveal that in such agreement it has been specifically disclosed that the purpose of

requisition and acquisition in respect of the aforementioned three plots were for creation of better living conditions in rural and urban area by the construction and reconstruction of dwelling place and for other purpose enacted therewith and identical thereto.

24. It is further argued by Mr. Chatterjee that from page nos. 11 to 16 of the affidavit-in-reply as filed by the writ petitioner against the affidavit-in-opposition of the KMDA, the writ petitioner has annexed a copy of the deed of license dated 22.05.2023 wherefrom it would reveal that KMD Authority had handed over a portion of the alleged acquired land to a company for commercial purpose which is contrary to the purpose of alleged original requisition and acquisition.

25. Placing his reliance upon the judgement as passed in the case of ***Royal Orchid Hotels Limited and Anr. vs. G. Jayarama Reddy and Ors.*** reported in **(2011) 10 SCC 608** it is argued by Mr. Chatterjee that in the said reported decision it has been held by the Hon'ble Supreme Court that in the event it was discovered that the land which has been acquired for public purpose cannot be permitted to be transferred to private persons and in such case the Court has enormous power to nullify the process of acquisition on the ground of fraud and misuse of the provisions of the Act.

26. It is thus submitted by Mr. Chatterjee that for the sake of argument even if it is accepted that the aforementioned three plots of land were acquired in accordance with law this Court should not be hesitant to nullify the entire process of acquisition on account of detection of fraud

on the part of the respondent/State since sufficient materials have been placed before this Court to substantiate that subsequent to the alleged acquisition the purpose of acquisition has been changed by the respondent/State.

27. Placing his reliance upon the judgement as passed in the case of ***State of Maharashtra and Anr. vs. B.E Billimoria and Ors. reported in (2003) 7 SCC 336*** it is submitted by Mr. Chatterjee that in the said case the Hon'ble Apex Court expressly held that when a statutory authority is required to do a thing in a particular manner, the same should have been done in that manner or not at all.

28. It is thus submitted by Mr. Chatterjee that it is a fit case of allowing the instant writ petition by granting an appropriate relief/reliefs as prayed for.

29. Per contra, Mr. Mahata, learned Additional Govt. Pleader appearing on behalf of the respondent/State in course of his argument at the very outset draws attention of this Court to page nos. 20a, 21a and 22a of the writ petition. It is submitted by Mr. Mahata that the photocopy of the record of rights as has been annexed at page nos. 20a, 21a and 22a are suspicious in nature since on perusal of the copies of the said alleged RS RoR it would reveal that attestation of those documents have been done on 10.12.1983 and 16.12.1968 respectively. It is submitted by Mr. Mahata that the date of attestation of those RS ROR was suspicious in nature in view of the fact that much prior to the said date of attestation RS RoR was finally published.

30. It is further submitted by Mr. Mahata that from the endorsement of the bottom portions of page nos. 20a, 21a and 22a of the writ petition it is found that the certified copies of the said RS RoRs were issued on the basis of the record of rights finally published under Section 51A(2) of West Bengal Land Reforms Act, 1956 which itself creates a doubt with regard to the genuineness of the said copies of RS RoRs as have been annexed at page nos. 20a, 21a and 22a of the writ petition since certified copies of the RS RoRs cannot be granted as per the provisions of West Bengal Land Reforms Act, 1956.

31. In his next fold of submission Mr. Mahata draws attention of this Court to page nos. 16 to 25 of the affidavit-in-opposition as used by the State being copies of the RS RORs in respect of the aforementioned three plots of land as available with the office of the jurisdictional Land Acquisition Collector.

32. It is submitted by Mr. Mahata that from the copies of RS RORs as have been annexed at page nos. 16 to 25 of the affidavit-in-opposition of the State it would reveal that the names of the rayats in respect of the three plots of land are quite different from the alleged copies of the RS RoRs as have been annexed with the instant writ petition.

33. It is further argued by Mr. Mahata in paragraph no.6(f) of the affidavit-in-opposition of the State it is the specific case of the respondent/State that record of rights as have been annexed with the instant writ petition do not match with the record of rights as available with the jurisdictional BL and LRO .

34. At this juncture Mr. Mahata draws attention of this Court to page nos. 14 to 24 of the affidavit-in-reply as filed by the writ petitioner against the affidavit-in-opposition of the respondent/State.

35. It is submitted by Mr. Mahata that in a proceeding under Section 44(2a) of West Bengal Estate Acquisition Act, 1953 the appropriate authority being the jurisdictional officer came to a finding that the corresponding RS/CS khatian in respect of the aforementioned three plots of land are mismatched which indicates that the copies of the record of rights as have been annexed at page nos. 20a, 21a and 22a of the writ petition are not genuine.

36. In his next limb of submission Mr. Mahata draws attention of this Court to paragraph nos.1 and 2 of the instant writ petition vis-à-vis the genealogical table as has been annexed at page no.19 of the instant writ petition. It is submitted by Mr. Mahata that the pleadings of the writ petitioner are absolutely incomplete inasmuch as there is no averment in the writ petition at all as to how the predecessor-in-interest of the present writ petitioner Prafulla Kumari Dutta became the owner of the aforementioned three plots.

37. It is further submitted by Mr. Mahata that there is no pleading at all in the instant writ petition as to how the writ petitioner inherited the aforementioned three plots of land as claimed to have been owned and occupied by Prafulla Kumari Dutta.

38. It is further submitted by Mr. Mahata that in paragraph no.2 of the instant writ petition though it is the case of the writ petitioner that the

said Prafulla Kumari Dutta passed away on 07.02.1950 however, from page no. 28A of the writ petition being a copy of the memo dated 06.03.1999 as issued by the Special Secretary-II/CMDA addressed to the said Prafulla Kumari Dutta it would reveal that the said memo dated 06.03.1999 was issued pursuant to a letter dated 09.01.1997 as written by Prafulla Kumari Dutta.

39. It is thus submitted by Mr. Mahata that if it be the case of the writ petitioner that Prafulla Kumari Dutta died on 07.02.1950 the said Prafulla Kumari Dutta cannot write a letter to the said Special Secretary on 09.01.1997 which indicates that the case of the writ petitioner is based on forged documents.

40. Drawing attention to page no. 27 of the instant writ petition being a copy of the memo dated 02.09.1996 as issued by the Executive Engineer, CMDA (now KMDA) addressed to Prafulla Kumari Dutta it is further submitted by Mr. Mahata that much after death of the said Prafulla Kumari Dutta correspondences took place between the said Prafulla Kumari Dutta and the officials of the KMDA even in the year 1996 whereas according to the writ petition Prafulla Kumari Dutta died in the year 1950.

41. In course of his submission Mr. Mahata draws attention of this Court to the affidavit portion of the instant writ petition. It is submitted that the affidavit as has been sworn by the writ petitioner is itself defective since in such affidavit the writ petitioner has not disclosed her age.

42. Placing his reliance upon the judgement as passed in ***Resurgence India vs. Election Commission of India and Anr. reported in (2014) 14 SCC 189*** it is submitted by Mr. Mahata that in the said reported decision it has been held by the Hon'ble Supreme Court that filing of affidavit with blank particulars will render affidavit nugatory.

43. It is thus submitted by Mr. Mahata that since the affidavit as affirmed by the petitioner is incomplete and since a writ petition is disposed of upon exchange of affidavits, the writ petitioner is not entitled to any relief as prayed for on account of incomplete affidavit which is nugatory in nature.

44. Placing reliance upon the judgement as passed in ***Bharat Singh and Ors. (supra) vs. The State of Haryana and Ors. reported in (1988) 4 SCC 534*** it is argued by Mr. Mahata that in the reported decision of ***Bharat Singh (Supra)*** the Hon'ble Apex Court has expressly held that in a writ petition or in the counter affidavit not only the facts but also the evidence in proof of such facts are to be pleaded and annexed with. It is thus submitted by Mr. Mahata that since the writ petitioner has failed to annex any document of title in respect of the aforementioned three plots of land and further the writ petitioner has based his claim merely on the records of right in respect of the aforementioned three pots of land the writ petitioners are not entitled to any reliefs as prayed for.

45. It is thus submitted by Mr. Mahata that it is a fit case for dismissal of the instant writ petition.

46. In course of his submission Mr. Dutta, learned Senior Advocate appearing on behalf of KMDA while adopting the argument of Mr. Mahata also questioned the *locus standi* of the writ petitioner in filling the instant writ petition. He also argued that in the instant *lis* no document of title has been filed on behalf of the writ petitioner. It is strongly contended by Mr. Dutta that by no stretch of imagination a record of right may be considered as a document of title. It is submitted by him that a record of right at best raises a presumption with regard to the possession.

47. Mr. Dutta also submits that it is fit case for dismissal of the instant writ petition.

48. In course of his reply Mr. Chatterjee, learned advocate appearing on behalf of the writ petitioner draws attention of this Court to the supplementary affidavit as filed on behalf of the respondent/State and as affirmed on 03.09.2025 annexing an attested copy of notification under Section 3 of Act II of 1948 dated 13.11.2010.

49. It is submitted by Mr. Chatterjee that the copy of the alleged notice under Section 3 of Act II of 1948 ought not to be considered by this Court since the copy of the said notice is an unsigned one and further the jurisdictional Additional District Magistrate was not at all authorized to issue notice in view of West Bengal Act III of 1965.

50. Drawing attention to Section 3 of the West Bengal Act III of 1965 it is submitted by Mr. Chatterjee that Section 3 of the West Bengal Act III of 1965 clearly mandates that it is the first Land Acquisition Collector, Calcutta who has been authorized by the State Government to make

orders under Section 3 (1A) of Act II of 1948. It is submitted by Mr. Chatterjee that for the sake of argument even if the alleged notice under Section 3 of Act II of 1948 is considered to be genuine however the said alleged notice under Section 3 of Act II of 1948 has got no value in the legal parlance in view of the provisions of Section 3 of West Bengal Act III of 1965. It is thus submitted by Mr. Chatterjee that the writ petitioners are entitled to the reliefs prayed for.

51. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given it's anxious consideration over the submissions of the learned advocates for the contending parties. In order to adjudicate the present *lis*, this Court at the very outset proposes to look to the prayers as made by the writ petitioner while filing the instant writ petition.

52. On perusal of the prayer portions of the instant writ petition it appears that the writ petitioners have made the following prayers:-

“a) Writ in the nature of Certiorari do issue calling upon the Respondent authorities to transmit all the records, papers, files etc with that after regard to the above case so considering the same, a conscionable justice can be done.

b) A writ in the nature of prohibition do issue restraining the Respondent authorities and/or each one of them from taking any steps in furtherance to create encumbrance including taking over possession of the said land creating any disturbance in dealing with the said land by the petitioner along with other co-sharers.

c) Writ in the nature of Mandamus do issue commanding the Respondents and/or each one of them.

- i) To act and proceed in accordance with law,*
- ii) To withdraw/ rescind & set aside the entire dealing including the License Deed made between the K.M.D.A and Haldiram Ltd.*
- d) Declaration,if necessary, that there has been no acquisition proceeding regarding Dag Nos.3775,3777 and 3788 in Mouza -Kasba J.L.No. 13 and that the respondent authorities never acquired right, title and interest to deal with the said land or any part thereof in any way whatsoever.*
- e) Rule NISI in terms of prayers before.*
- f) Injunction restraining the Respondent authorities and/or each one of them from taking any steps in furtherance thereto including taking over possession of the land and interfering in dealing with the said land by the petitioner along with other co-sharers.*
- g) Injunction restraining the Haldiram Ltd. from interfering with the right of the petitioner in respect of the said land comprised at Dag No. 3775, 3777 and 3788 in Mouza-Kasba, J.L.No. 13*
- h) Ad-interim order in terms of prayers (f) and (g) above.*
- i) Such further and/or other order or orders be made as to this Hon'ble Court may seem fit and proper.”*

53. Since in course of their respective arguments Mr. Mahata and Mr. Dutta have raised the question of *locus standi* of the writ petitioner who filed the instant writ petition, this Court at the very outset proposes to look to paragraph nos. 2 and 3 of the instant writ petition. On conjoint perusal of paragraph nos.2 and 3 of the instant writ petition it appears to this Court that it is the case of the writ petitioners that in respect of RS Dag nos. 3775, 3777 and 3788 one Prafulla Kumari Dutta, since deceased (who according to the writ petitioner passed away on 07.02.1950) was the absolute owner of 122 kathas of land in the said three plots.

54. It further reveals that the writ petitioner has claimed that she and the proforma respondent no.14 became the owners of the aforementioned plots of land by way of inheritance as per the genealogical table as has been annexed at page nos. 19 of the instant writ petition.

55. As rightly pointed out by Mr. Mahata and Mr. Dutta that in support of the claim of ownership over 122 kathas of land in the aforementioned three RS plot nos. the writ petitioner has not produced any document of title to substantiate as to how the predecessor of interest of the writ petitioner namely; Prafulla Kumari Dutta, since deceased became the owner of the said three plots of land in the aforementioned three plots.

56. It rather appears to this Court that relying upon page nos. 20a, 21a and 22a being the copies of RS RoRs the writ petitioner made an endeavour to substantiate that the name of her said predecessor in interest namely; Prafulla Kumari Dutta, since deceased was recorded in the said RS RoRs as raiyat.

57. At this juncture if I look to the page nos. 16 to 25 of the affidavit-in-opposition as filed on behalf of the State it reveals that the aforementioned three plots of land were not at all recorded in the name of said Prafulla Kumari Dutta, since deceased and on the contrary the same have been recorded in the names of different persons to the extent of their shares.

58. At this juncture the moot question which arises for consideration before this Court is that which of the records of right would be considered to be valid.

59. It appears to this Court that the jurisdictional BL&LRO is the custodian of the original records of right and such being the position this Court considers that the copies of the RSRoRs as have been filed on behalf of the respondent/State ought not to be overlooked giving precedence to the records of rights as submitted by the writ petitioners since the records of right as have been produced before this Court on behalf of the State are public documents of more than 30 years old and those are/were produced from proper custody in terms of the provisions of Section 90 of Indian Evidence Act corresponding to Section 92 of Bharatiya Sakshya Adhinyam (in short BSA).

60. On further careful perusal of the materials as placed before this Court on behalf of the State by way of affidavit-in-opposition it further appears to this Court that in respect of the aforementioned three plots of land after the acquisition, awards have been declared and compensations have been disbursed in favour of the awardees whose names were recorded in the record of rights immediately prior to the acquisition in terms of the provisions of Act II of 1948.

61. Though Mr. Chatterjee in course of his argument was very vocal with regard to the validity of the said acquisition in the absence of any valid requisition it appears to this Court from the supplementary affidavit as affirmed on 03.09.2025 on behalf of the respondent/State that notice under Section 3(1) of Act II of 1948 was published for requisition of various lands including the aforementioned three plots of land in its entirety.

62. On perusal of page nos.14 and 15 of the affidavit-in-opposition as filed on behalf of the respondent/State and soon thereafter i.e. on 14.10.1974 a notice under Section 4 of Act II of 1948 was published in the official gazette which clearly indicates regarding absolute vesting of the requisitioned land including aforementioned three plots of land in the State Government free from all encumbrances.

63. It further appears to this Court that since after requisition and acquisition, award has been declared by the Collector under Section 7A of Act II of 1948 there cannot be any hesitation to hold that the said requisition and acquisition process as have been initiated by the State Government by publication of notice under Section 3 and publication of the subsequent notification under Section 4 of the said Act II of 1948 has become complete in all respect.

64. At this juncture I propose to look to page nos.12 to 16 of the affidavit-in-opposition as filed by KMDA being a copy of the indenture dated 22.01.1996 as have been executed by the Governor of West Bengal being the assignor and the CMDA (now KMDA) authority being the assignee whereby and whereunder the said acquisitioned land including the aforementioned three plots of land in its entirety have been transferred to the KMDA authority and thus possession of the aforementioned three plots of land in their entirety have been given to the KMDA authority.

65. Though in course of his argument Mr. Chatterjee strongly contended that from page nos.11 to 16 and from page nos.17 to 42 of the

affidavit-in-reply as filed by the writ petitioners against the affidavit-in-opposition of the KMDA being the copies of a deed of license dated 22.05.2003 and a judgement and decree passed by the learned Civil Judge (Senior Division), 5th Court, Alipore in Title Suit no. 90 of 2009 respectively, it would reveal that in respect of the aforementioned three plots the right, title and interest of the KMDA authority are still imperfect either by their own admission in the said deed of license and/or in the pleading in the said suit however, such contention is not at all acceptable to this Court in view of the fact that in a writ petition this Court cannot adjudicate the title either of the writ petitioner or of the KMDA since the adjudication of the right, title and interest of a party can be done by trial on evidence which machinery a writ court does not possess.

66. It thus appears to this Court that in absence of any contrary material this Court finds no reason to overlook and/or ignore the copy of the aforesaid registered deed of indenture dated 22.01.2019 keeping in mind the chronology of events as discussed in the foregoing paragraphs.

67. As discussed hereinabove since the present writ petitioner is unable to produce any scrap of paper regarding her alleged title in respect of the aforementioned three plots of land except some copies of the RSRoRs (which may at best be called the document of possession) this Court finds that the present writ petitioner has got no *locus standi* to question the mode of requisition and/or acquisition as has been contended by Mr. Chatterjee in course of his argument.

68. For the self same reason this Court finds no reason to overlook the records of right as has been annexed with the affidavit-in-opposition of the State in respect of the aforementioned three plots of land which have been produced from proper custody by holding that those records of right are either not genuine and/or those have been created subsequently to suit the purpose of the respondent/State.

69. Since Mr. Chatterjee in course of his argument challenges the validity of the copy of the notice under Section 3 of Act II of 1948 as has been filed on behalf of the respondent/State by way of supplementary affidavit dated 03.09.2025 in the teeth of Section 3 of West Bengal Act III of 1965 this Court at the very outset proposes to look to the provisions of Section 3 of Act II of 1948 and also Section 3 of West Bengal Act III of 1965 which are enumerated hereinbelow in verbatim:-

Section 3 of Act II of 1948

“3. Power to requisition.”-(1) *If the State Government is of the opinion that it is necessary so to do for maintaining supplies and services essential to the life of the community or for increasing employment opportunities for the people by establishing commercial estates and industrial estates in different areas or for providing proper facilities for transport, communication, irrigation or drainage, or for the creation of better living conditions in rural or urban areas, not being an industrial or other area excluded by the State Government by a notification in this behalf, by the construction or reconstruction of dwelling places in such areas or for purposes connected therewith or incidental thereto, the State Government may, by order in writing, requisition any land and may make such further*

orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no land used for the purpose of religious worship or used by an educational or charitable institution shall be requisitioned under this section.

(1A) A Collector of a district, an Additional District Magistrate or the First Land Acquisition Collector, Calcutta when authorised by the State Government in this behalf, may exercise within his jurisdiction the powers conferred by sub-section (1).

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of an occupier, not being the owner of the land, also on such occupier.

(3) If any person fails to comply with an order made under sub-section (1). the Collector or any person authorised by him in writing in this behalf shall execute the order in such manner as he considers expedient and may.-

(a) if he is a Magistrate, enforce the delivery of possession of the land in respect of which the order has been made to himself, or

(b) if he is not a Magistrate, apply to a Magistrate or, in Calcutta as defined in clause (11) of section 5 of the Calcutta Municipal Act. 1951, to the Commissioner of Police, and such Magistrate or Commissioner, as the case may be, shall enforce the delivery of possession of such land to him."

Section 3 of Act III of 1965

"3. Validation of certain orders made by the First Land Acquisition Collector, Calcutta, under sub-section (1) of section 3 of West Bengal Act II of 1948.- Notwithstanding anything to the contrary contained in any other law, all orders under sub-section (1) of section 3 of the West Bengal Land (Requisition and Acquisition)

Act, 1948 (hereafter in this section referred to as the said Act), made after the commencement of the West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1964, by the First Land Acquisition Collector, Calcutta, purporting to act on the authorization made by the State Government under sub-section (1A) of section 3 of the said Act by the Government of West Bengal, Department of Land and Land Revenue (Land Acquisition) notification No. 19754-L.A., dated the 22nd November, 1963 (hereafter in this section referred to as the said notification), for requisitioning lands in Calcutta for the purpose of creation of better living conditions in certain areas in Calcutta by the construction or reconstruction of dwelling places for people residing in such areas shall be and shall be deemed to have always been as valid as if-

- (a) the said notification had been issued by the State Government after the commencement of the West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1964, and*
- (b) the First Land Acquisition Collector, Calcutta, had been duly authorised by the State Government to make such orders under sub-section (1A) of section 3 of the said Act;*
and no such orders and no action taken or thing done in pursuance of such orders, shall be called in question merely on the ground that the First Land Acquisition Collector, Calcutta, was not duly authorised by the State Government to make such orders.”

70. On perusal of Section 3 of Act II of 1948 it appears to this Court that the legislatures on their own wisdom empowered the Collector of a District, an Additional Magistrate or the First Land Acquisition Collector, Calcutta to make requisition.

71. On perusal of the Section 3 of Act III of 1965 it appears to this Court that Section 3 of Act III of 1965 deals with validation of certain

orders made by the First Land Acquisition Collector, Calcutta under Section 3(1A) of Act II of 1948.

72. It however does not transpire to this Court that Section 3 of Act III of 1965 in anyway invalidates the power of an Additional District Magistrate of a district to make requisition under Section 3 of Act II of 1948.

73. In view of such, this Court finds no reason to hold that the notice under Section 3 of Act II of 1948 as published on 30.11.2003 by the Additional District Magistrate, 24- Parganas, Alipore is otherwise invalid.

74. Though in course of argument Mr. Chatterjee raises the question of genuineness of the copy of the notice under Section 3 of Act II of 1948 as has been filed along with the supplementary affidavit dated 03.09.2025 by the respondent/ State on account of absence of any signature thereon however, it appears to this Court that the Annexure R5 to the supplementary affidavit dated 03.09.2025 is an attested copy of original notice dated 30.11.2003 as published under Section 3 of Act II of 1948 and it also bears the signature and seal of the Additional District Magistrate, 24-Parganas, Alipore at its internal page no.2.

75. In view of such, this Court finds no reason to disbelieve the notice under Section 3 of Act II of 1948 for requisition as published prior to acquisition of the aforementioned three plots of land under Section 4 of Act II of 1948.

76. In considered view of this Court that the reported decision of **Kamakhya Ram Barooah (supra)** as cited from the side of the writ

petitioner is distinguishable from the facts and circumstances of the instant case in view of the fact that the State has submitted sufficient documents that prior to the acquisition the mandatory provision of Section 3 of Act II of 1948 was complied with.

77. This Court further considers the reported decision of **Samarendra Nath Paul (supra)** as cited by Mr. Chatterjee in course of his argument is noway helpful to the writ petitioner and on the contrary it helps the respondent/State as well as respondent/ KMDA authority since in view of the proposition of law as decided in the case of **Samarendra Nath Paul (supra)** provision of Section 3 of Act II of 1948 has been mandatorily complied with by the State/ respondent.

78. In further considered view of this Court the reported decision of **Royal Orchid Hotels Ltd. (supra)** as cited from the side of the writ petitioners is also noway helpful to the writ petitioner in view of the fact that this Court in the earlier paragraphs of the said judgement has expressly held that in absence of any document of title in respect of the aforementioned three acquisitioned land the writ petitioner has got no *locus standi* to challenge the action of the KMDA by alleging that the KMDA authority is going to utilize the land for the purpose for which it was not acquisitioned since this writ petition is not in the nature of a public litigation.

79. In view of the aforementioned discussion this Court is of considered view that the reported decision of **B.E Billimoria (supra)** as cited by Mr. Chatterjee is also noway helpful to the writ petitioner.

80. In view of the discussion made hereinabove this Court finds no merit in the instant writ petition.

81. The instant writ petition is thus dismissed along with all connected pending interlocutory applications, if there be any.

82. Interim order, if there be any, stands vacated.

83. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(PARTHA SARATHI SEN, J.)