

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 28229 of 2025

Nirmal Mondal

VS.

The Union of India & Ors.

For the Petitioner : Mr. Prantick Ghosh
Mr. Prasad Bhattacharyya
Ms. Shravani Ghosh
Ms. Poulami Saha
..... advocates

For the State : Mr. Chandi Charan De, Ld. AGP
Ms. Reshma Chatterjee
.... advocates

Reserved on : 02.02.2026

Judgment on : 09.03.2026

Hiranmay Bhattacharyya, J.:-

1. Petitioners have prayed for setting aside the order of the Special Land Acquisition Officer, 24 Parganas (North) at Barasat dated 10.09.2025 and a direction upon the respondent authorities to issue release order in favour of the petitioners certifying that the land measuring about 26.38 Decimals in Dag No. 502 is free from acquisition proceeding. Alternatively, a writ in the nature of mandamus was sought for to declare the acquisition proceeding under LA Case No.- D-8(N) of 1966-67 and LA Case No. D-24 of 1961-62 dated 9th July, 1959 as illegal.

2. The case made out by the petitioners in a nutshell is as follows:

Several plots of land at Mouza Gouripur including CS Plot No. 502 and several plots within Mouza Doharia in the District of 24 Parganas (North) were acquired for the purpose of diversion of the existing road which is popularly known as “Jessore Road” being part of NH-12. Some of the owners of the aforesaid lands filed a writ petition in the year 1967 ventilating various grievances including return of surplus unused lands and for payment of compensation. By an order dated 12.05.1969, this Hon’ble Court directed return of those lands that may be left over after construction of the diversion road to the writ petitioners within the time limit mentioned in the said order. It is stated that after construction of the diversion road it was found that there was huge area of surplus land which was not utilized and the same was abandoned by the respondent authorities. Sushil Ranjan Majumdar and Satya Ranjan Majumdar became the absolute owners of a plot of land being CS Dag No. 502 within Mouza Gouripur measuring about 38 decimals by dint of purchase on 01.02.1961. Out of the total land measuring about 38 decimals in C.S. Dag No. 502, quantum of land measuring about 24 decimals was required by the respondent authorities but out of the said 24 Decimals only land measuring about 11.62 Decimals was utilized and the balance 12.38 Decimals of land was not utilized. Petitioners allege that the said surplus land measuring about 12.38 Decimals in CS Dag No. 502 corresponding to RS Dag No. 502 is lying vacant and adjacent to Jessore Road. It is stated that the remaining unacquired portion of CS Dag No. 502 measuring about 14 i.e., (38-24) decimals is also lying vacant and adjacent to Jessore Road.

3. Petitioners claim to have purchased the entire (14+12.38) i.e., 26.38 Decimals of land by dint of six deeds from the heirs, heiresses and legal representatives of Sushil Ranjan Majumdar and Satya Ranjan Majumdar both since deceased and recorded their names in the LR Record of Rights in respect of C.S./R.S. Dag No. 502 in Mouza Gouripur. Petitioners jointly submitted a representation dated 21.03.2024 before the District Magistrate,

24 Parganas (North) being the 5th respondent praying for issuance of a release order in favour of the petitioners certifying that the land measuring about 26.38 Decimals in Dag No. 502 which was purchased by the petitioners by virtue of those deeds of conveyance are released from government incumbrances.

4. Petitioners allege that the 5th respondent referred the matter to the Officer-in-Charge of the Land Acquisition Department but the said authority also did not communicate their decision to the petitioners on their representation dated 21.03.2024. Finding no other alternative, the petitioners approached this Court by filing a writ petition being WPA 14232 of 2024 which was disposed of by a co-ordinate bench by an order dated 11.06.2025 by directing the 8th respondent therein to treat the writ petition as a representation of the writ petitioners and after affording an opportunity of hearing to the petitioners and/or their representative and/or any other interested persons to pass a reasoned order in writing and to communicate the same to the writ petitioners within the time limit stipulated therein. Pursuant to the said order, Special Land Acquisition Officer 24 Parganas (North) at Barasat being the 8th respondent passed the order dated 10.09.2025 which is under challenge in this writ petition.
5. The learned advocate appearing for the petitioners submitted that in an earlier writ petition being Civil Rule No. 2195(W) of 1967, an order was passed on 12.05.1969 on consent of the parties whereby the respondent authorities agreed that whatever lands may be left out after construction of the diversion road on both sides are to be returned. The learned advocate for the petitioner further submits that the petitioners acquired title to the property being Dag No. 502 measuring about 26.38 Decimals and are in possession of the same. He further submitted that the respondent authorities agreed to return the unutilized land to the land losers and, therefore, the petitioners having purchased the unutilized portion of CS Dag No. 502 are entitled to a release order from the government certifying that the said unutilized portion is free from acquisition.

6. The learned advocate for the petitioner placed reliance upon a decision of the Hon'ble Supreme Court in the case of ***State of Haryana vs. Jay Singh***¹ in support of his contention that the petitioners have a right to claim return of surplus land. He further contended that when the Government mutated the name of the petitioner as a tenant and accepted rent from them, the land cannot be treated as vested land and in support of such contention, the learned advocate for the petitioner placed reliance upon the decisions of this Court in the case of ***Panchu Molla vs. State of West Bengal and ors.***² and ***Bholanath Chakraborty vs. State of West Bengal***³.
7. Per contra, Mr. Chandicharan Dey, learned Additional Government Pleader submitted that 24 Decimals of land in CS Dag No. 502 of Mouza Gouripur were acquired and the award was declared and the possession has been handed over to the Requiring Body. He submitted that 24 Decimals of land in CS Dag No. 502 stood vested to the State free from all incumbrances with the passing of the award and handing over possession of the same to the Requiring Body.
8. Heard the learned advocate for the parties and perused the materials placed.
9. The petitioners are seeking a similar relief that was granted to the land owners by an order dated 10.12.1973 passed in CR 2195 (W) of 1967. By the said order, a direction was passed upon the authorities to return the surplus/unutilized land in CS Dag No. 502 of Mouza Gouripur.
10. The petitioners in CR 2195(W) of 1967 approached this Court with an application under Article 226 of the Constitution of India disputing certain notifications and declarations made under the Land Acquisition Act in connection with the proceeding being LA Case no. 4/71 of 1963-64. The said Rule was disposed of by consent of parties by an Order dated 12.05.1969.

¹ 2025 INSC 1122

² 1980 (2) CLJ 1

³ (2001) 2 CLT 114

11. The operative portion of the said order dated 12.05.1969 is extracted hereinafter-

“By consent of parties the following order is made:-

Whatever lands may be left out after construction of the diversion road including the crown of the road, the shoulders or flanks, foot-path and drains on both sides are to be returned to the petitioners. The construction of the diversion road and also the flanks, footpath and drains are to be completed within a period of two years. Liberty is given to the parties to apply for the award with regard to the acquisition which may be made but no effect will be given to the same for a period of two years. Liberty is also given to apply for extension of time, if necessary.

This order is confined to the petitioners and the added petitioners.

All interim orders are vacated.

The Rule and the application are disposed of accordingly.”

(emphasis supplied)

12. After disposal of the main rule i.e., CR 2195 (W) of 1967, an application dated 03.09.1973 was taken out by the Union of India praying for an order extending the time for construction of the road and also for return of the surplus land by three years. The said application was disposed of by an order passed on 10.12.1973 by refusing to grant any extension except on fulfillment of the directions of the Court regarding clear return and release of the surplus land at the middle and the plots which have gone beyond the alignment in Mouza Doharia. It was further clarified that by clear release and return, it means release from acquisition and return free from all incumbrances and until that was done there will be no order extending the time as prayed for. With the above observations, the application was disposed of. However, liberty was given to apply for extension on fulfillment of conditions as aforesaid.
13. The learned advocate for the petitioner would contend that since the order dated 12.05.1969 was a consent order, the respondent authorities are

bound by such order and, therefore, the respondent authorities should be directed to release the unutilized land in plot no. 502 to the petitioners.

14. At the first blush the argument of the learned advocate for the petitioner appeared to be attractive but on a closer scrutiny of the materials on record this Court is not inclined to accept the contention of the learned advocate for the petitioner for the reasons as set out hereinafter.
15. The order dated 12.05.1969 was passed on consent of the parties. It was specifically observed in the said order that such order is confined to the petitioners and the added petitioners. It is not the case of the petitioners that their vendors were parties in the said writ petition or were the added petitioners therein. Thus, the order dated 12.05.1969 or the subsequent orders more particularly the order dated 10.12.1973 cannot enure to the benefit of the writ petitioners.
16. The writ petitioners claim to have purchased the property measuring about 26.38 decimals by virtue of several deeds of conveyance during the years 2022-24 from the heirs, heiresses and legal representatives of Satya Ranjan Majumdar and Sushil Ranjan Majumdar both since deceased.
17. Record reveals that Satya Ranjan Majumdar and Sushil Ranjan Majumdar purchased 38 Decimals of land in CS Dag No. 502 from one Jatindra Kumar Pal upon payment of valuable consideration and became the owners of the said plot. The Special Land Acquisition Officer 24 Parganas (North) at Barasat upon scrutiny of the records of the land acquisition case recorded the following factual finding in the order dated 31.07.2025.

That CS Plot no. 502 in Mouza Gouripur along with other plots were involved in a land acquisition proceeding being LA-D-8 of 1966-67 initiated under the Land Acquisition Act 1894 including various plots of Mouza Doharia in the District of 24 Parganas (North) for the purpose of diversion of Jessore Road at Dumdum in the village of Gouripur and Doharia. Award was declared against CS Plot nos. 502 in favour of Satya Ranjan Majumdar and Sushil Ranjan Majumdar. An application under

Section 18 of the Land Acquisition Act was also filed being Reference Case no. 142/68 and consequently the matter was referred before the Referral Court. Possession of the acquired land in CS Dag No. 502 was taken over and an area of land measuring about 0.24 acres pertaining to CS Plot no. 502 in Mouza Gouripur along with other plots was handed over to the Requiring Body.

18. The aforesaid factual finding could not be controverted by the petitioners by producing any material records at the time of hearing of this writ petition.
19. The writ petitioner, in paragraph 8 of the writ petition, specifically stated that in the year 1979, the individual raiyats including the vendors of the writ petitioners approached before the State respondents for the purpose of taking benefit alike the petitioner in Civil Rule No. 2195(W) of 1967 but the respondent authorities were reluctant to extend the benefit of the Civil Rule in the case of the land owners of Mouza Gouripur. However, the petitioners have approached only in the year 2024 praying for release of the surplus/unutilized land in C.S./R.S. Dag No. 502 of Mouza Gouripur.
20. It is evident from the factual finding recorded by the Special Land Acquisition Officer that the award has been passed and the possession has been taken over from the erstwhile owners and handed over to the Requiring Body. Thus, upon declaration of award and handing over possession of the portion of the land in Dag No. 502, which forms the subject matter of acquisition, such land stood vested upon the Government free from all incumbrances.
21. Petitioner has prayed for release/return of the land which, according to the petitioner, was unutilized.
22. The question that arises for consideration is whether the possession of the land in question can be directed to be returned to the petitioners even if the same has not been utilized for the purpose for which the same was required.

23. The issue whether land once vested in the Government can be divested fell for consideration before the Hon'ble Supreme Court in the case of **V. Chandrasekaran v. Administrative Officer**,⁴. In the said reported decision, the Hon'ble Supreme Court after noting various decisions summarized its conclusion in paragraph 31 of the said reports wherein it was held that once the land is acquired and it vests in the State free from all incumbrances, it is not the concern of the land owner whether the land is being used for the purpose for which it was acquired or for any other purpose. It was further held that he becomes *persona non grata* once the land vests in the State and has a right to only receive compensation for the same, unless the acquisition proceeding is itself challenged. The Hon'ble Supreme Court further held that the State neither has the requisite power to re-convey the land to the person interested nor can such person claim any right of restitution on any ground, whatsoever, unless there is some statutory mandate to this effect.
24. The learned advocate for the petitioner in course of his argument could not point out any provision of the Land Acquisition Act 1894 which provides for return of unutilized land to the erstwhile land owner or the subsequent purchaser after the same stood vested to the State.
25. The petitioners herein, who are subsequent purchasers, sought to challenge the acquisition proceeding in this writ petition.
26. The issue whether a subsequent purchaser has a right to challenge the legality of the acquisition proceeding fell for consideration before the Hon'ble Supreme Court in the case of **Star Wire (India) Ltd. v. State of Haryana**⁵. In the said reports the Hon'ble Supreme Court held that any incumbrances created by the erstwhile owner of the land after publication of the notification under Section 4(1) does not bind the State. If the possession of the land is already taken over after the award came to be passed, the land

⁴ (2012) 12 SCC 133

⁵ (1996) 11 SCC 698

stood vested in the State free from all incumbrances under Section 16. It was further held that a subsequent purchaser is not entitled to challenge the legality of the acquisition proceeding on the ground of lack of publication of the notification. It was held therein that the purchase made by the erstwhile owner of the land after publication of the notification under Section 4(1) do not bind either the State Government or the beneficiary for whose benefit the land was acquired and the purchaser does not acquire any valid title. It was held that even the colour of title claimed by the purchaser was void and the beneficiaries are entitled to have absolute possession free from all incumbrances.

27. In ***U.P. Jal Nigam v. Kalra Properties (P) Ltd.***,⁶ the Hon'ble Supreme Court held that the purchaser of the property after the notification under Section 4(1) was published, is devoid of any right to challenge the validity of the notification or irregularity in taking possession of the land before publication of the declaration under Section 6.
28. In view of the aforesaid well settled proposition of law laid down by the Hon'ble Supreme Court, this Court holds that the petitioners being subsequent purchasers did not acquire any valid title in respect of the portion of CS Dag No. 502 corresponding to RS Dag No. 502 which was the subject matter of the acquisition proceeding.
29. The learned advocate appearing for the petitioner would vehemently contend that the petitioners are in possession of the property and in support thereof placed strong reliance upon the Record of Rights.
30. The word "vest" fell for consideration before the Hon'ble Supreme Court in the case of ***Fruit & Vegetable Merchants Union v. Delhi Improvement Trust***,⁷ wherein it was held that the word "vest" means that the property acquired becomes the property of the Government without any condition or limitation either as to title or possession. Thus, when there is absolute

⁶ (1996) 3 SCC 124

⁷ (1956) 2 SCC 484

vesting in the State it is vesting along with possession and thereafter a person who remains in possession is only a trespasser without any rightful possession. It was further held that vesting cannot be considered with any rider as to title or possession and vesting contemplates absolute title and possession in the State. The said proposition of law has been reiterated by the Hon'ble Supreme Court in the case of **Indore Development Authority vs. Sailendra**⁸ (see paragraph 94 and 95 of the said reports).

31. This Court has already held that the petitioners did not acquire any valid title by virtue of the purchase from the heirs, heiresses and legal representatives of Sushil Ranjan Majumdar and Satya Ranjan Majumdar. Since the land stood vested with the State, the lawful possession is deemed to be of the State.
32. The Hon'ble Supreme Court in the case of **Jitendra Singh vs. State of Madhya Pradesh**⁹ after noting various decisions held that mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value of title. It was further held therein that entries in the revenue records have only fiscal purpose and such entries are relevant only for the purpose of collecting land revenue and no ownership is conferred on the basis of such entries. The Hon'ble Supreme Court held thus-

“7. Right from 1997, the law is very clear. In the case of Balwant Singh v. Daulat Singh (D) By Lrs., reported in (1997) 7 SCC 137, this Court had an occasion to consider the effect of mutation and it is observed and held that mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue. Similar view has been expressed in the series of decisions thereafter.

8. In the case of Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186, it is observed and held by this Court that an entry in revenue records does not confer title on a person whose name appears in record-

⁸ (2018) 3 SCC 405

⁹ (2021) SCC Online SC 802

of-rights. Entries in the revenue records or jamabandi have only “fiscal purpose”, i.e., payment of land revenue, and no ownership is conferred on the basis of such entries. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent civil court. Similar view has been expressed in the cases of Suman Verma v. Union of India, (2004) 12 SCC 58; Faqrudin v. Tajuddin, (2008) 8 SCC 12; Rajinder Singh v. State of J&K, (2008) 9 SCC 368; Municipal Corporation, Aurangabad v. State of Maharashtra, (2015) 16 SCC 689; T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342; Bhimabai Mahadeo Kambekar v. Arthur Import & Export Co., (2019) 3 SCC 191; Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259; and Ajit Kaur v. Darshan Singh, (2019) 13 SCC 70.”

33. In ***State of Punjab vs. Sadhu Ram***¹⁰ it was held that if consequent upon the passing of the award and the possession taken of the land, the right, title and interest of the erstwhile owner stood extinguished and the Government became the absolute owner of the property free from all encumbrances, unless the title is conferred on any person in accordance with a procedure known to law, no one can claim any title much less equitable title by remaining in possession. It was further held in the said reports that the Government is not bound by the entries made in the record of rights under such circumstances.
34. This Court has already held that the petitioner did not acquire valid title to the property and the lawful possession is with the State. To the mind of this Court, the Government is not bound by the entries in the revenue records in the name of the petitioner. Thus, the said entries cannot have the effect of divesting the State of the property which already stood vested with the State free from all encumbrances.
35. The Special Land Acquisition Officer after noting that the writ petitioners purchased the said land from the legal heirs of the original awardees, applied the well settled proposition of law laid down by the Hon’ble Supreme

¹⁰ (1997) 9 SCC 544

Court in **V. Chandra Sekharan (supra)**¹¹ and rightly held that once the land stood vested to the State there is no scope to release the land to the tenure holders or the persons interested even if it is not used for the purpose for which it was so acquired. The order impugned is a well-reasoned order. The said order does not suffer from infirmity.

36. This Court accordingly holds that the petitioner is not entitled to an order for return of the alleged unutilized portion of the plot in question.
37. In **Jay Singh (supra)**¹², the respondents therein filed the writ petition challenging the amendments carried out in the Punjab Village Common Lands Regulation Act 1961, thereby inserting Sub-clause (6) to Section 2(g) of the 1961 Act along with an explanation to the said sub-clause. The Full Bench of the Punjab and Haryana High Court, after examining the legality of sub-clause (6) of 2(g) the 1961 Act, partly allowed the writ petition preferred by the respondent/ land owners by issuing certain consequential directions with regard to certain mutation entries made by the authorities.
38. The Full Bench of the Hon'ble High Court drew a distinction between the land reserved for common purpose under Section 18(c) of the Consolidation Act of 1948 which might become part and parcel of a scheme framed under Section 14, for the areas reserved for common purposes, that have actually not been put to any common use and may be put to common use in a later point of time on the one hand and the lands which might have been contributed by the proprietors on pro rata basis but have not been reserved or earmarked for common purposes in the scheme.
39. The Hon'ble Full Bench after drawing a distinction between the aforesaid two categories held that the lands reserved for common purposes vests with the Government or the Gram Panchayat as the case may be and the proprietors are left with no right or interest in such lands meant for common purpose under their scheme.

¹¹ (2012) 12 SCC 133

¹² 2025 INSC 1122

40. The Hon'ble Full Bench held that the lands which have not been earmarked for the specific purpose do not vest in the Gram Panchayat or the state.
41. After taking note of the provisions of the 1948 Act it was held that if the land which has not been reserved or earmarked for a common purpose in a scheme, known as Bachaat land, the same would not vest either with the State or the Gram Panchayat. The Hon'ble Supreme Court affirmed the finding of the Hon'ble Full Bench of the High Court in so far it was held therein that the lands which have not been earmarked for any specific purpose do not vest in the Gram Panchayat or the state.
42. The provisions of the 1961 Act which fell for consideration before the Hon'ble Supreme Court in **Jay Singh (supra)**¹³ is different from the provisions laid down under the Land Acquisition Act 1894. Therefore, the decision in the case of **Jay Singh (supra)**¹⁴ cannot be of any assistance for the purpose of deciding the dispute involved in the instant case.
43. In **Bholanath Chakraborty (supra)**¹⁵ the State initiated a proceeding under Section 5(a) of the West Bengal Estate Acquisition Act 1953 and the Revenue Officer held that the deed of gift executed in the year 1954 was not bona fide. In the said decision the co-ordinate bench held that since the State has accepted the rents from the plaintiff and the name of the plaintiff has been mutated in the recent record of rights the State cannot treat the land as vested land as by such subsequent conduct the State has recognized the tenancy right of the plaintiff in respect of the land in question.
44. In view of the well settled proposition of law laid down by the Hon'ble Supreme Court as observed *supra* this Court is not inclined to follow the

¹³ 2025 INSC 1122

¹⁴ 2025 INSC 1122

¹⁵ (2001) 2 CLT 114

decision of the co-ordinate bench in the case of ***Bholanath Chakraborty (supra)***¹⁶.

45. For all the reasons as aforesaid this Court is not inclined to interfere with the order impugned. Accordingly the writ petition stands dismissed. There shall be, however, no order as to costs.
46. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)

¹⁶ (2001) 2 CLT 114