

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

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

**WPO 1531 of 2023
ADITYA ALMAL AND ANR.**

VS

THE FIRST LAND ACQUISITION COLLECTOR, KOLKATA AND ANR.

For the petitioner : Mr. Arijit Bardhan
Mr. Soumyajit Mishra
Mr. A. Mondal
..... advocates

For the Respondents : Ms. Noelle Banerjee
Ms. Swagata Ghosh
..... advocates

Reserved on : 19.02.2026

Judgment on : 26.02.2026

Hiranmay Bhattacharyya, J.:-

1. Petitioners have sought for a mandamus commanding the respondents to appoint an Arbitrator for determination of the compensation to be awarded to the petitioners for the period from the midnight of March 31, 1992 till January 13, 2023.
2. Petitioners claim that their predecessor-in-interest became the owner of Premises No. 2, Garstin Place, Kolkata- 700 001 (hereinafter referred to as the "said premises") by dint of purchase from the erstwhile owner. The First Land Acquisition Collector requisitioned the northern portion of the first floor of the said premises on 07.11.1965 invoking the provisions of West Bengal Premises Requisition and Control (Temporary Provision) Act, 1947 (for short "the 1947 Act") for accommodating the election authority of the Kolkata Municipal Corporation (for short "KMC"). The northern portion of

the third floor was further requisitioned by the aforesaid authority on August 31, 1979 under the 1947 Act for identical purpose. The remaining portion of the third floor was requisitioned for identical purpose on October 4, 1986 under the 1947 Act. By virtue of the said requisitions, KMC was in occupation and possession of different portions of the said premises.

3. Though an attempt was made to acquire the said premises by issuing a notification under Section 4 of the Land Acquisition Act, 1894 (for short the “1894 Act”) followed by a declaration under Section 6 of the 1894 Act, the said acquisition proceeding stood lapsed as no award was published within the stipulated period under Section 11A of the 1894 Act.
4. The owners of the said premises approached this Court by filing AP/97/2002 for appointment of an Arbitrator to determine the rent compensation under Section 11 of the 1947 Act. The said application was disposed of by an order dated July 5, 2002 whereby, on consent of the parties, the Learned District Judge, 24 Parganas (North) was appointed as an Arbitrator. The Arbitrator made an award dated April 18, 2007 assessing the rent compensation for the period from the date of requisition of the said premises till July 27, 1989.
5. Petitioners filed a writ petition being WP/61/2017 praying for a writ of mandamus commanding and directing the respondent authorities to forthwith make over possession of the specific portions of the said premises and for a further direction upon the respondents to pay to the petitioners a sum assessed on account of mesne profits for the period from July 27, 1989 till such time vacant possession of the aforesaid portions of the said premises are made over to the petitioners.
6. The said writ petition was disposed of by a co-ordinate bench by a judgment and order dated August 10, 2018 by directing the State Government to take steps relating to revision of the compensation for the period from the midnight of March 31, 1992 till the property is acquired or in the event no

acquisition proceeding is initiated, the same is to be physically and actually delivered to the petitioners.

7. The possession of the requisitioned property was actually delivered on January 13, 2023. The rent compensation was initially assessed for the period from April 1, 1992 till March 2019. Thereafter a further assessment was made for the period from April 2019 till January 12, 2023.
8. Petitioners recorded their dissatisfaction against the amount of rent compensation assessed by the First Land Acquisition Collector and claims to have accepted the amount without prejudice to their rights and contentions.
9. The instant writ petition has been filed as the petitioners are not satisfied with the amount assessed as rent compensation.
10. Mr. Bardhan, learned advocate appearing in support of the writ petition contended that no agreement on the amount of compensation was reached between the parties when the authorities fixed the revised compensation and, therefore, the State Government was under a statutory obligation to appoint an Arbitrator in the light of the provisions laid down under Section 11(1) (b) of the 1947 Act. Mr. Bardhan submitted that since the assessment of compensation for the period in question is not acceptable to the petitioner, an Arbitrator should be appointed to determine the amount of compensation.
11. Per contra, Mr. Noelle Banerjee, learned advocate appearing for the State drew the attention of the Court to the operative portion of the order dated 10.08.2018 passed by a co-ordinate bench in WP/61/2017 and contended that the co-ordinate bench directed the State Government to take steps for revision of compensation. She submitted that the provisions relating to revision of compensation have been laid down under Section 14A of the 1947 Act. She contended that pursuant to the directions passed by the co-ordinate bench on 10.08.2018, the rent compensation was revised and the petitioner after accepting the amount of compensation cannot turn around and challenge the assessment of rent compensation.

12. In reply, Mr. Bardhan placed reliance upon the letters dated March 31, 2023 and May 10, 2023 in support of his contention that the petitioners received the amount of compensation without prejudice to their rights and contentions. He also contended that pursuant to the liberty granted vide order dated May 3, 2023 passed in a contempt petition arising out of WPO/61/2017, petitioner has filed this writ petition as the quantum of compensation assessed by the First Land Acquisition Collector is not fair and justified.
13. Heard the learned advocates for the parties and perused the materials placed.
14. Record reveals that the petitioners took out a contempt petition being CC/57/2019 alleging violation of the judgment and order dated August 10, 2018. During the pendency of the said contempt application and pursuant to the orders passed in connection thereto, possession of the premises in question was delivered to the petitioners on January 13, 2023.
15. Rent compensation was initially assessed for the period from April 1, 1992 till March 2019. Thereafter, further assessment was made for the period from April 2019 till January 12, 2023. Petitioners recorded their dissatisfaction with the amounts of compensation assessed by the First Land Acquisition Collector. It is evident from the letters dated March 31, 2023 and May 10, 2023 that the petitioners accepted the payments on account of rent compensation without prejudice to their rights and contentions.
16. It appears from the order dated May 3, 2023 passed in the contempt application that the Court after noting that the possession of the property has been delivered and monetary compensation has been paid, refrained from entering into the issue whether the quantum of compensation is fair and justified in exercise of contempt jurisdiction and left it open to the petitioners to take appropriate steps as permissible under the law.

17. The petitioners claim to have filed the instant writ petition pursuant to the aforesaid liberty and allege that the quantum of compensation assessed is not fair.
18. The short question that falls for consideration in this writ petition is whether an Arbitrator should be appointed to determine the amount of compensation for the period in question.
19. Chapter III of the 1947 Act lays down the provisions regarding compensation. Chapter III starts with Section 11 which deals with the procedure for fixing compensation. Matters to be taken into consideration for fixing the compensation by agreement has been specified in Section 12. Provisions relating to increase or decrease in rent compensation have been incorporated in Section 14A of the 1947 Act.
20. For the purpose of answering the issue raised in this writ petition, it will be profitable to recapitulate the provisions of Section 11 of the 1947 Act for which the same is extracted hereinafter.

“Section 11 - Procedure for fixing compensation

(1) Where any premises are requisitioned under this Act, there shall be paid to all persons interested person the amount of which shall be determined in the manner, and in accordance with the principles hereinafter set out, namely:-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(b) where no such agreement can be reached, the State Government shall appoint a District Judge or an Additional District Judge as arbitrator ;

(c) the State Government may, in any particular case, nominate a person having expert knowledge as to the nature of the premises requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose ;

(d) at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation ;

(e) the Arbitrator shall in, determining the amount of compensation to be awarded to the landlord, have regard to the matters referred to in clauses (a), (b) and (c) of section 12 :

Provided that notwithstanding anything contained in section 12--

(1) in the case of an entire premises which was constructed after the commencement of the West Bengal Premises Requisition and Control(Temporary Provisions) (Second Amendment) Act, 1963 (West Ben. Act XXIX of 1963), the amount payable annually shall not exceed 6 per cent of the sum total of the cost of construction of such premises and the market price of the land on the date of commencement of construction, together with one-half of the total amount of municipal rates and taxes payable annually in respect of such premises ;

(2) in other cases, the amount payable shall not exceed;

(i) where the premises were let out on rent for a continuous period of not less than six months and ending within six months before being requisitioned, such rent by more than ten per cent., or

(ii) where the premises were not so let out, such rent as would be reasonable having regard to the situation, locality and condition of the premises and the amenities provided therein and where there are similar premises in the locality, having regard also to the rent payable in respect of such premises ;

(f) an appeal shall lie to the High Court against an award of an arbitrator ;

(g) save as provided in this section and in any rules made under this Act, nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

(2) Compensation shall also be paid in respect of any damage done to the premises during the period of requisition other than what may have been sustained by normal wear and tear or by natural causes. When the amount of such compensation can be fixed by agreement, it shall be paid in accordance with such agreement; where no such agreement can be reached the matter shall be referred to the arbitrator.”

21. Section 11 provides that where any premises has been requisitioned under the 1947 Act and if the amount of compensation can be fixed by agreement,

all the persons interested shall be paid the amount of compensation in accordance with such agreement. However, where no such agreement can be reached, the State Government shall appoint a District Judge or an Additional District Judge as Arbitrator who shall determine the amount of compensation to be awarded to the landlord. An appeal shall lie to the High Court against an award of the Arbitrator. Matters to be considered by the Arbitrator in determining the amount of compensation have been specifically laid down in clause (e) of Section 11(1) read with the proviso thereto.

22. In the case on hand, the District Judge was appointed as an Arbitrator by consent of the parties. The Arbitrator passed an Award on April 18, 2007 awarding the amount of compensation to be paid to the claimant/petitioner which comes to Rs. 41,18, 380/- and a further award of interest @ 9% per annum on the claim for the period the amount remaining unpaid after 60 days from the date of the award.
23. Thereafter, on a writ petition being WPA/61/2017 filed by the petitioners praying for an order directing the authority to make over possession of the portions requisitioned and for the assessment of a sum on account of mesne profits, the co-ordinate bench directed the State Government to take steps relating to revision of the compensation for the period from the midnight of 31st March 1992 till the property is acquired or in the event no acquisition proceeding is initiated, the same to be physically and actually delivered to the petitioners.
24. It is not in dispute that during the pendency of contempt petition the possession of the property was actually delivered to the petitioners on January 13, 2023 and the rent compensation on revision was assessed in two phases for the period from April 1, 1992 till January 12, 2023.
25. Mr. Bardhan strenuously argued that no agreement was reached when the compensation for the period from April 1, 1992 till January 12, 2023 was fixed and, therefore, the State Government was under a statutory obligation to appoint an Arbitrator for determination of the compensation amount to be

awarded to the petitioner. On the other hand Ms. Noelle Banerjee would contend that the State revised the compensation amount in terms of the order passed by the co-ordinate bench in WPO/61/2017.

26. At this stage it would be beneficial to consider the provisions relating to increase or decrease in rent compensation and for which Section 14A of the 1947 Act is extracted hereinafter.

“Section 14A - Increase or decrease in rent compensation

(1) *The rent compensation of any premises shall be liable to be:-*

(a) *increased or decreased where the rent compensation includes the tenant's share of the municipal rates and taxes and there has been increase or decrease in such rates and taxes, by adding to the compensation payable for a year one half of the total amount of such increase in respect of such premises or by deducting from the rent compensation an amount proportionate to the decrease in the municipal rates and taxes, as the case may be, or*

(b) *increase, where the landlord incurs any expenditure on the improvement of structural alteration to the premises with the approval, in writing, of the State Government, by adding to the rent payable for a year ten per cent. of the amount of such expenditure.*

(2) *The Collector shall, on application made to him by the landlord in the prescribed manner, fix in respect of any premises the increase or decrease referred to in sub-section (1) ;*

Provided that the Collector may by notice in writing to the landlord suo motu decrease the rent compensation, if no application from the landlord for such decrease is received by him within a period of ninety days from the date on which the decrease in the municipal rates and taxes takes effect.

(3) (a) *The rent compensation may be revised only if there has been an increase or decrease in the market value of the premises.*

(b) *Such revision shall be made on application made to the Collector by the landlord in the prescribed manner :*

Provided that no such application shall be entertained until after the expiry of a period of five years from the date on which the compensation was last fixed :

Provided further that in the case of decrease in the market value of the premises, the Collector may by notice in writing to the landlord suo motu revise the rent compensation, if no application from the landlord for

such revision is received by him within a period of ninety days from the expiry of the period of five years as aforesaid.

(4) The rent compensation of the premises payable for a year shall not be increased or decreased by the revision by more than two and a half per cent. per annum of the difference between the market value of the premises as on the date of application under sub-section (3) or, in the case of suo motu revision, the date immediately following the date of expiry of five years and ninety days from the date on which the compensation was last fixed, as the case may be, and as on the date of the last fixation of the rent :

Provided that the rent so increased or decreased shall not exceed ten per cent. of the existing rent of the premises :

Provided further that in respect of any premises which have been on requisition for a continuous period of not less than fifteen years and there has been no revision of rent compensation within the said period, such rent compensation shall not be increased by more than ten per cent. for every five years of requisition.”

27. It is not the case of either of the parties that the rent compensation should be increased or decreased on account of increase or decrease of the tenant's share of the municipal rates and taxes or that such compensation should be increased as the landlord incurred any expenditure on the improvement of structural alteration to the premises with the approval of the State Government.
28. Sub-section 3 of Section 14A provides that the rent compensation may be revised only if there has been an increase or decrease in the market value of the premises and such revision shall be made on application made to the Collector by the landlord in the prescribed manner.
29. Proviso thereto states that no such application shall be entertained until the expiry of a period of 5 years from the date on which the compensation was last fixed.
30. The second proviso empowers the Collector to suo moto revise the rent compensation in case of decrease in the market value of premises.

31. The expression “no such application shall be entertained” appearing in the proviso to Clause B of Sub-section 3 of Section 14A of the 1947 Act implies that entertaining an application for revision of rent compensation prior to the expiry of a period of five years from the date on which the compensation was last fixed is prohibited.
32. Sub-section (4) of Section 14A provides the rate at which the rent compensation of the premises payable for a year shall be increased or decreased by revision and the date from which such increase or decrease shall take effect. Proviso thereto states that rent so increased or decreased shall not exceed 10% of the existing rent of the premises.
33. The expression “existing rent of the premises” appearing in the proviso to Sub-section 4 of Section 14A assumes significance. The “existing rent” of the premises would mean the rent of the premises which was existing as on the date of filing of the application for revision of compensation. The second proviso thereto states that in respect of any premises which have been on requisition for a continuous period of not less than 15 years and there has been no revision of rent compensation within the said period, such rent compensation shall not be increased by more than 10% for every five years of requisition.
34. In the case on hand, the rent compensation has been fixed by an award passed by the Arbitrator from the date of requisition of the concerned premises till July 27, 1989. Once the rent was fixed by an Arbitrator further revision of the rent compensation would be made only in accordance with the provisions laid down under Sub-section (3) and (4) of Section 14A of the 1947 Act.
35. The directions contained in the order passed by the co-ordinate bench on August 10, 2018 in WPO 61 of 2017 is very specific and by the said order the State Government was directed to take steps relating to the revision of the compensation for the period from the midnight of 31.03.1992 till the

same is physically and actually delivered to the petitioners, in the event no acquisition proceeding is initiated.

36. The co-ordinate bench further recorded a factual finding that it is manifestly clear that after the lapse of acquisition proceeding as the award is not made within the time stipulated therein the property cannot remain under requisition eternally. It was further observed that since the extended period under the proviso to Section 10B of the Act has also expired in the midnight of 31.03.1992, the possession of the corporation is palpably wrongful and/or illegal and, therefore, is required to be given back to the petitioners.
37. The said decision has already attained finality. Thus, the possession of the KMC after the midnight of 31.03.1992 was wrongful and/or illegal.
38. Section 11 of the 1947 Act provides for fixing compensation in respect of a premises requisitioned under the 1947 Act. The petitioners have sought for determination of the compensation amount for the period commencing from April 1, 1992 till the date when the possession of the requisition portion of the premises in question was actually delivered in favour of the petitioners.
39. The question that now arises for consideration is whether an Arbitrator under Section 11(1)(b) of the 1947 Act can be appointed for fixing the compensation in respect of a premises after the expiry of the period of requisition. In other words, whether an Arbitrator can be appointed for fixing the compensation for a period when the KMC was in possession of the property without any authority of law.
40. A more or less similar issue fell for consideration before the Hon'ble Supreme Court in the case of ***Punalur Paper Mills Ltd. vs. W.B. Mineral Development and Others***¹. The point was raised before the Hon'ble Supreme Court that the compensation for the illegal occupation of the premises cannot be assessed by the District Judge under Section 11(1)(b) of the 1947 Act as Section 11(1) refers to compensation during the period of

¹ (2021) 14 SCC 528

requisition and not after the property continues to remain with the State without any authority of law even after the requisition period ends. The Hon'ble Supreme Court on a cursory reading of the provisions laid down under Clauses (a) and (b) of sub-section 1 of Section 11 of the 1947 Act, held that it is clear that the appellant is correct in its submission and therefore, accepted the submission of the appellant and the impugned judgment of the Hon'ble Division Bench was set aside to that extent and the Civil Appeals were accordingly allowed.

41. From the aforesaid discussion it follows that the rent compensation for a premises cannot be fixed by the Arbitrator under Section 11(1)(b) of the 1947 Act during the period the property continues to remain with the State without any authority of law.
42. In the case on hand as observed *supra*, the property continued to remain with the KMC without any authority of law even after the extended period under the proviso to Section 10B of the Act had expired in the midnight of 31.03.1992 and the possession of the KMC was held to be palpably wrongful and/or illegal.
43. Petitioner seeks appointment of an Arbitrator for the purpose of determination of the compensation for the period during which the possession of the KMC in the premises in question was held to be palpably wrongful and/or illegal. Thus, by applying the provisions laid down by the Hon'ble Supreme Court in **Punalur Paper Mills (supra)**² this Court holds that no direction can be passed upon the State Government to appoint an Arbitrator under Section 11(1)(b) of the 1947 Act for determination of compensation for the period from April 1, 1992 till January 12, 2023, i.e., during the period the property continued to remain without any authority of law.
44. That apart, the 1947 Act provides for revision of the existing rent of the premises in the manner as laid down under sub-section (3) and (4) of

² (2021) 14 SCC 528

Section 14A of the 1947 Act. As the compensation during the period of requisition has already been fixed by an award passed by the Arbitrator when the property was under requisition, there is no question of appointment of Arbitrator at the time of revision of compensation for the period the property was held by KMC without any authority of law.

45. For all the reasons as aforesaid this Court is not inclined to allow the prayer of the petitioner for appointment of an Arbitrator for determination of the compensation on and from April 1, 1992 till the date of delivery of the possession of the requisitioned portion of the premises in question to the petitioner. Accordingly the writ petition stands dismissed without, however, any 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.)