

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Original Side**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya**

APO No. 82 of 2025

With

IA No: GA 1 of 2025

***arising out of*
WPO No. 624 of 2008**

Madhurina Mitra

– Versus –

The State of West Bengal and Others

For the appellant	:	Mr. Partha Pratim Roy, Mr. Kushal Chatterjee, Mr. Oishik Chatterjee, Mr. Debrup Chowdhury, Mr. Biswajyoti Mitra, ... Advs.
For the State	:	Mr. Lalit Mohan Mahata, Sr. Govt. Adv., Mr. Ziaul Haque, Mr. Prasanta B. Mahata, ... Advs.
For the KMDA	:	Mr. Kishore Dutta, Ld. Adv. General, Mr. Satyajit Talukdar, Mr. Avishek Guha, Mr. Suvojit Das, ... Advs.
Heard on	:	17.12.2025, 07.01.2026, 21.01.2026 & 28.01.2026
Reserved on	:	28.01.2026
Judgment on	:	11.02.2026

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred against a judgment dated September 17, 2025 passed in WPO No. 624 of 2008, whereby the appellant's writ petition was dismissed by the learned Single Judge.
2. The primary relief sought in the writ petition was a declaration that there has been no acquisition proceeding in respect of the subject-plots, bearing Dag Nos. 3775, 3777 and 3788 in Mouza – Kasba, JL No.13, and that the respondent-Authorities never acquired any right, title and interest to deal with the said land or part thereof in any way.
3. As per the State-respondent and the KMDA, the requiring authority, upon due compliance of Section 3 of the West Bengal Land (Requisition and Acquisition) Act, 1948 (for short, "Act II of 1948"), the subject-plots were acquired under Section 4 of the said Act and thereafter handed over to the requiring authority, the KMDA, upon which the KMDA has granted a licence in favour a third party being M/s. Haldiram Limited to fructify the purpose for which the land was first requisitioned and then acquired.
4. Learned counsel for the appellant argues that service of notice of requisition under Section 3(2) of Act II of 1948 is mandatory. Since, in the present case, no such notice was served on the predecessor-in-interest of the appellant, the subsequent acquisition was itself vitiated and ought to be set aside.

5. Learned counsel, in support of his argument as to the mandatory nature of notice under Section 3(2), cites a co-ordinate Bench decision of this Court in the matter of *Samarendra Nath Paul & Ors. v. Collector, Hooghly & Addl. District, Magistrate & Ors.*, reported at (1997) 1 Cal LJ 370, as well as two other co-ordinate Bench judgments of this Court in the matters of *Sri Sailendra nath Pal & Ors. v. State of West Bengal & Others*, reported at (2010) 2 Cal LJ 15, and *Mihir Kumar Sarkar and others v. State of West Bengal and others*, reported at AIR 1972 Cal 8.
6. Apart from those, learned counsel cites *S.M. Nandy and others v. The State of W.B. and others*, reported at (1971) 1 SCC 688, where a Constitution Bench of the Hon'ble Supreme Court turned down a challenge to the *vires* of Act II of 1948, *inter alia* on the ground that there is a provision for service of notice on the owner/occupier under Section 3(2) of the said Act and, consequentially, the said owner/occupier can make a representation to the State Government.
7. Learned counsel also places reliance on the language of Section 3(2), which uses the expression "shall", stating that the same indicates the mandatory nature of the provision. As per sub-section (2) of Section 3, it is contended, such notice has to be served in the prescribed manner.
8. Rules 3 and 4 of the West Bengal Land (Requisition and Acquisition) Rules (hereinafter referred to as "the 1948 Rules"), respectively

provide the mode and manner in which such notice is required to be served. Thus, it is reiterated that since no proper notice under the said provisions was served on the predecessor-in-interest of the appellant, the acquisition proceeding is itself ought to have been set aside by the learned Single Judge.

9. Secondly, it is contended by learned counsel appearing for the appellant that in the facts of the present case, it is evident that no notice under Section 3(2) was served. It is pointed out that the State, in its supplementary affidavit filed at the hearing stage before the Writ Court, had relied on a document purporting to be a notice under Section 3(2). However, the said contention cannot be accepted on several counts. First, there is no signature of the authority on the first page of the said notice. Secondly, the space provided for service in the aforesaid requisition order is left vacant. Thirdly, the notice is not in Form-I, as provided in the 1948 Rules. Fourthly, it is argued that only a Special Land Acquisition Collector was authorised under Act II of 1948 to issue such notice, whereas it is the Land Acquisition Collector who apparently signed the document in the present case, on its second page.
10. Moreover, learned counsel for the appellant submits that on the second page of the purported order under Section 3(2), apparently the seal of the LA Collector, "24 – Parganas (South)" was depicted, whereas the undivided District of 24 Parganas was divided into North and South 24 Parganas only in the year 1983, with effect

from 1986. The notice-in-question was purportedly signed in 1973, when such division of the said District had not yet taken place. Thus, the very mention of the District 24 – Parganas (South) in the purported notice indicates that the said notice is fraudulent.

- 11.** Learned counsel for the appellant goes on to argue that upon specific query by the appellant under the Right to Information Act, 2005, the appropriate authority of the KMDA wrote to the appellant on September 2, 1996 and March 6, 1999 that there was no requisition order in respect of the subject-plots in the year 1973 and the requisition order, if any, was cancelled. Furthermore, it was informed that such requisition took place between 1978 and 1980, therefore belying the case of the State that the requisition took place in 1973. It is pointed out that the KMDA has never disputed such information or issuance of such letter on its behalf.
- 12.** Learned counsel for the appellant next submits that the predecessor-in-interest of the appellant was the recorded owner as per the concerned RS Records of Rights. The State merely contends that there is a mismatch of the same with the extract of the present Records of Rights as supplied by the BL & LRO, Kolkata. The use of the expression “present” clearly indicates that the State does not deny the recording of the name of the appellant’s predecessor-in-interest at the relevant point of time.
- 13.** Learned counsel for the appellant also cites a *suo motu* proceeding undertaken by the appropriate authority under Section 44(2a) of the

West Bengal Estates Acquisition Act, 1953 (in brief, “the 1953 Act”), in which it was ultimately found that the recording of the subject-plots in the name of one Ram Lal Mondal was incorrect, whereas it should have been in the name of Prafulla Kumari Dutta, the predecessor-in-interest of the appellant. The papers of the corresponding case, bearing Case No. 01 of 2005, are relied on in such context.

- 14.** Learned counsel next submits that the extracts of the Records of Rights which are sought to be relied on by the State are certified copies of the year 2000, whereas the Records of Rights relied on by the appellant are certified copies of the year 1983, which are prior in point of time. Moreover, it is contended that the extracts of Records of Rights produced by the State are bereft of the stamp/seal of the concerned Department.
- 15.** The State takes a stand on the basis of allegedly finally published Records of Rights of the year 1955 in support of its case that the name of the appellant’s predecessor was not recorded therein. However, the 1953 Act was enforced from February 12, 1954 and was continuing in the year 1955. The RS (Revisional Settlement) operation started much later. As such, it is contended that there could not even exist any entry in the RS Records in the year 1955.
- 16.** Learned counsel for the appellant further argues that the KMDA has not denied, in its affidavit-in-opposition, the issuance of information regarding there being no requisition of the subject-plot in 1973.

Moreover, in the written statement filed by the KMDA in an independent civil suit bearing Title Suit No. 90 of 2009, it was admitted that the title in respect of the subject-plots was yet to be cleared by the LA Department.

- 17.** Furthermore, in the licence deed dated May 22, 2003, executed by the KMDA (then “CMDA”) in favour of M/s. Haldiram Limited, after the alleged handing over of possession to the said requiring body, it was categorically mentioned that the scheduled land was “in the process of requisition by the State of West Bengal; as such, the authority is not in a position to grant lease of the plot-in-question”.
- 18.** Such statements of the KMDA, it is submitted, belie the State’s claim of acquisition of the subject-plots under Section 4 of Act II of 1948.
- 19.** Learned Advocate General (AG), appearing on behalf of the KMDA, contends that a notification of acquisition under Section 4(1a) of Act II of 1948 was duly published in the Official Gazette in respect of the subject-plots *vide* Notification No. 21901-LA(P.W.)2R-157/74 dated October 17, 1974. Thereafter, the land was duly acquired and handed over to the KMDA of December 18, 1973. It is further submitted that awards were duly passed and compensation paid to the land losers under the appropriate provisions of law. Thus, the remedy of anybody aggrieved by the awards, after the acquisition proceeding culminated in such awards, would be only by way of a challenge under Section 8 of Act II of 1948, read with Section 18 of

the Land Acquisition Act, 1894 (for short, “the LA Act”). The appellant never undertook any such challenge and, as such, is debarred now from challenging the acquisition itself at this advanced stage, particularly when the requiring body had already taken over possession and executed appropriate licence deed to a third-party.

- 20.** Learned AG next relies on the stand taken by the State in the affidavit-in-opposition filed before the writ court, to the effect that the Section 3(1) notice was duly served on the persons recorded in the Records of Rights to be in occupation of the subject-plots. Awards were also published in the names of such recorded owners. Hence, the appellant cannot argue that there was no compliance of Sections 3 or 4 of Act II of 1948.
- 21.** Learned AG argues that no ground of non-compliance of Section 3(2) of Act II of 1948 was taken in the writ petition.
- 22.** Secondly, it is argued that a notice under Section 3(2) of the said Act is not mandatory, since no serious consequence follows if no such service is effected. The only remedy to a land loser would be to file an objection at the stage of acquisition under Section 4 of Act II of 1948 and/or Section 8 of the said Act, read with Section 18 of the LA Act, after the award was passed.
- 23.** It is contended that no substantial prejudice is caused to the land loser by non-service of a notice under Section 3, since such notice is merely an intimation of requisition and nothing beyond.

- 24.** Drawing analogy from Section 9(3) of the LA Act, learned AG cites *M/s. Hunuikeri Bros. v. Asst. Commissioner, Dharwar Divisiain, and another*, reported at 1961 SCC OnLine Kar 146, where a similar provision was being considered, and *May George v. Special Tahsildar and Others*, reported at (2010) 13 SCC 98.
- 25.** Learned AG next argues that the decision in *Samarendra Nath Paul & Ors. (supra)*¹, rendered by a co-ordinate Bench of this Court, was set aside by the Hon'ble Supreme Court in *S. Palani Velayutham and others v. District Collector, Tirunelveli, Tamil Nadu and others*, reported at (2009) 10 SCC 664. Thus, the said judgment of the co-ordinate Bench is no longer good law.
- 26.** Learned AG further argues that the purported *suo motu* proceeding under Section 44(2a) of the 1953 Act took place much after the awards were declared and payments were duly made in respect of the compensation payable to the land losers in the present acquisition proceeding. Thus, the acquisition cannot be invalidated *post facto* on the basis of such subsequent *suo motu* proceeding or any order passed therein.
- 27.** Learned AG points out that Prafulla Kumari Dutta, the predecessor-in-interest of the appellant, admittedly died in the year 1950. Hence, no proceeding could be initiated in her name post-1950. It is submitted that the appellant's name was never recorded in the Records of Rights even after the death of Prafulla Kumari Dutta.

¹ ***Samarendra Nath Paul & Ors. v. Collector, Hooghly & Addl. District, Magistrate & Ors.*, reported at (1997) 1 Cal LJ 370**

- 28.** Learned Senior Government Advocate (SGA), representing the State, pleads that the reliance of the appellant on purported extracts from Records of Rights in the name of Prafulla Kumari Dutta, allegedly attested on December 10, 1968 and December 10, 1983, were palpably erroneous, since Prafulla, the predecessor-in-interest of the appellant, admittedly died in the year 1950.
- 29.** The case under Section 44(2a) of the 1953 Act, bearing No. 1 of 2005, mentioned Prafulla Kumari Dutta in the order-sheet when she had already expired. It is argued that the said *sou motu* proceeding was not for the purpose of correcting Records of Rights, since its scope was only to detect illegalities or fraud.
- 30.** Whereas Prafulla Kumari Dutta died in the year 1950, no application was ever made by her heirs to proceed with or incorporate their own names as legal heirs in any proceeding or in the Records of Rights. Thus, the recording of the name of Prafulla Kumari Dutta in the purported extracts of Records of Rights submitted by the appellant are fictitious.
- 31.** Learned SGA further contends that it will be evident from the annexures to the State's affidavit-in-opposition, filed before the Writ Court, that the RS Records of Rights stood in the name of Radharani Debi and others at the relevant point of time. The Possession Certificate duly issued and Gazette Notification under Section 4 of Act II of 1948, which were also produced before the Writ Court, clearly mentioned the persons authorised under Section

3(1A) of Act II of 1948. Thus, the appellant's plea that the Land Acquisition Collector concerned did not have authority at the relevant juncture is unlawful.

- 32.** Learned SGA also relies on documents relating to payment of compensation, which were part of the documents produced by the State before the Writ Court. Thus, it is argued, the acquisition process was duly initiated after initial requisition by giving notice to the recorded owners, and culminated in awards being passed and the lands-in-question vesting in the State. Such proceeding, thus, cannot be reopened at this belated stage.
- 33.** With regard to the compliance of Section 3 of Act II of 1948, learned SGA submits that the actual recorded owners never raised any objection in respect of non-issuance of Section 3(2) notice. In fact, such notice was duly served on them.
- 34.** Secondly, it is contended that there is no pleading in the writ petition as to how the appellant inherited the subject-plots. Prafulla Kumari Dutta, the alleged predecessor-in-interest of the appellant, died on February 7, 1950; thus, the said deceased could not have written a letter to the Special Secretary on January 9, 1997, which is sought to be relied on by the appellant. The said document, it is submitted, is a forged one.
- 35.** Lastly, learned SGA submits that absolutely no document of title has been filed by the appellant to support her claim in respect of title to the subject-plots. The plinth of the appellant's claim to title

is only certain irregular and illegal entries in the Records of Rights. Thus, the appellant does not have any *locus standi* to question the requisition under Section 3 and subsequent acquisition under Section 4 of Act II of 1948.

- 36.** Upon hearing learned counsel for the parties, the court arrives at the following conclusions:

Whether non-service of notice under Section 3(2) of Act II of 1948 vitiates the subsequent acquisition under Section 4 of the said Act

- 37.** Both sides have relied on certain decisions on this issue.
- 38.** Adopting the process of elimination, we first take up the judgment of a co-ordinate Bench of this Court passed in *Samarendra Nath Paul & Ors. (supra)*². The KMDA, during its arguments, has pointed out that the said judgment was set aside by the Hon'ble Supreme Court in *State of W.B. and others v. Samarendra Nath Paul and others*, reported at (1997) 6 SCC 492. Thus, the said judgment cannot be relied on as such. However, although the judgment of the co-ordinate Bench in the said matter cannot bind the parties, in view of the same having been set aside by the Hon'ble Supreme Court, we are to examine as to whether any binding proposition of law was laid down in *Samarendra Nath Paul & Ors. (supra)*² and, if so, whether such proposition itself would otherwise have

² ***Samarendra Nath Paul & Ors. v. Collector, Hooghly & Addl. District, Magistrate & Ors.*, reported at (1997) 1 Cal LJ 370**

precedential value which was upset or overruled by the Hon'ble Supreme Court.

- 39.** The first question which fell for consideration before the co-ordinate Bench in the said judgment was whether the entire requisition proceeding was vitiated in law owing to non-service of notice upon the petitioners.
- 40.** In the said matter, the defence taken by the authorities was that a notice was served under Certificate of Posting, which was held by the co-ordinate Bench not to be good service, since it was not one of the modes contemplated under Rule 3 of the 1948 Rules. A thorough perusal of the relevant paragraphs of the report, in particular Paragraph Nos. 10 and 11 thereof, would reveal that the pivot of such consideration was the mode of service and not the service itself. The Hon'ble Supreme Court reversed such finding on the ground that service by registered post was only one of the contemplated modes of service, whereas in the said matter, service had otherwise been affected by affixing a copy of the order under Section 3(1) on a conspicuous part of the land-in-question.
- 41.** On such premise, it was observed that the service was proper and the co-ordinate Bench erred in holding that there was no such service of notice.

- 42.** Hence, the issue under consideration in *Samarendra Nath Paul & Ors. (supra)*³ was somewhat different from the present case, where the mode of service is not germane at all but the substantive question of non-service is under consideration.
- 43.** It would also be of some relevance here to consider the observations made by the Hon'ble Supreme Court while setting aside the co-ordinate Bench judgment in *Samarendra Nath Paul & Ors. (supra)*³ in Paragraph 13 of the Supreme Court's judgment. The Hon'ble Supreme Court observed there that it is not the case of the respondents that the power of requisition which was exercised by the State respondents was *mala fide* or outside the purview of the Act. The Supreme Court further observed that it did not think that the Court, in the exercise of its Constitutional powers of judicial review, should hasten to set aside the order of the authorities on some supposed grounds when the facts clearly speak for themselves and the authorities act within the scope of their powers as conferred upon them by law.
- 44.** Hence, by necessary implication, the Hon'ble Supreme Court reiterated that unless there were *mala fides* or some act *de hors* the purview of the Act, there ought not to be any interference with an Executive action merely for the asking.

³ ***Samarendra Nath Paul & Ors. v. Collector, Hooghly & Addl. District, Magistrate & Ors.*, reported at (1997) 1 Cal LJ 370**

- 45.** Moving on to *Mihir Kumar Sarkar (supra)*⁴, which has also been cited by the appellant, the said judgment, rather than aiding the appellant, enures against the proposition sought to be mooted by learned counsel appearing for the appellant. In Paragraph 22 of the said judgment, the co-ordinate Bench observed that it also appears from Section 3(2) that it does not require notice to be given to the owner or occupier before the order of acquisition is made, although it requires that the order of requisition, after having been made, shall be served in the prescribed manner on the owner and/or the occupier of the land.
- 46.** Although there may be doubt about such proposition in view of the language of Section 3(3), which provides that if a person fails to comply with an order made under sub-section (1), the authorized Collector or Magistrate may enforce the delivery of possession and the provision of Section 4(1), which, in turn, starts with the expression “Where any land has been requisitioned under Section 3”, which mandates compliance of Section 3 before acquisition under Section 4 of Act II of 1948, the observations made by the co-ordinate Bench in the subsequent paragraphs are worthy of note. The following paragraphs of the said judgment, which are relevant in the context, are quoted below:

“28. *The real enquiry therefore in this appeal is whether the West Bengal Land (Requisition & Acquisition) Act, 1948*

⁴ ***Mihir Kumar Sarkar and others v. State of West Bengal and others, reported at AIR 1972 Cal 8***

specifically or by necessary implication excludes the provision of notice as part of natural justice claimed by the appellants. In order to determine this question the words used in this statute, the nature of the power used or conferred and the purpose for which it is conferred and the effect of the exercise of such power are all relevant considerations.

29. *I, therefore, proceed to examine this scheme of West Bengal Land (Requisition and Acquisition) Act, 1948 to determine whether notice is expressly or by necessary implication excluded so far as requisition is concerned, I find from the analysis of this Statute that there is conscious and deliberate departure in the Act from the natural justice of giving prior notice in the case of requisition. This becomes apparent when the contrast is made between acquisition where the statute expressly provides for notice and requisition where it deliberately avoids provision for notice. I have already quoted Section 3 which does not mention any notice before requisition under this Act. On the other hand acquisition under the Act is provided in Section 4. In Section 4(1) (a) it is expressly provided that the State Government may acquire any land requisitioned under Section 3 by public notice in the official gazette that such land is required for public purpose referred to in sub-s. (1) of Section 3. Immediately upon such publication the requisitioned land vests absolutely in the State Government free from all encumbrances and the period of requisition ends by reason of the provision of sub-sec. (2) of Section 4 of this Act. Section 4 immediately follows Section 3 of the Act. When Section 3 deals with requisition it does not mention the requirement of notice to be given before requisition, but immediately in the next Section when acquisition is mentioned in Section 4 there is the express provision for notice. I read these two sections in close juxtaposition to indicate the object and purpose of the statute to exclude notice in the case of requisition and to include notice in the case of acquisition.*

34. *Apparently the order of requisition under the West Bengal Land (Requisition and Acquisition) Act, 1948 is of a similar*

nature. It is not in the nature of an order in judicial proceedings. Therefore, absence of express provision for notice before requisition of land under Section 3 of the West Bengal Land (Requisition and Acquisition) Act, 1948 cannot ordinarily vitiate such requisition either on the ground of principles of natural justice or on the ground of infringement of fundamental rights of property under the Constitution of India.

43. *As at present advised this Court is not prepared to subscribe to the doctrine that there is no distinction between judicial or quasi-judicial decisions on the one hand and purely executive and administrative decisions on the other. The very nature of the writs like mandamus on the one hand and Certiorari or Prohibition on the other stems from that distinction. If all administrative or executive decisions were to follow judicial or quasi-judicial procedures then that would in this Court's view lead to utter confusion and an impossible state of affairs and will mean disregard of the basic principles of executive action and judicial action which do not represent a merely formal or theoretical distinction but a qualitative distinction springing from the nature of the act itself. No doubt Lord Parker's observation that good and honest administration must act fairly is basic to law and any good legal administration but that only means that the executive or the administrative action should not be mala fide or for collateral purpose. Lord Parker's proposition must be read subject to the express limitations that the learned Lord Chief Justice himself used and which I have quoted above. Lord Denning's observations that the distinction is no longer valid, following as they did Lord Parker's view, must be read subject to the same limitations. As at present advised this Court is of the opinion that an executive decision or action or an administrative decision is liable to be struck down if it is used mala fide or for a collateral purpose, on that ground alone, and not on the ground that there is no legal and juristic distinction between executive action and the judicial action. In any event in the case of an area completely covered by a special statute and*

specially in a field which is not covered by the common law I maintain the view, that the statute must govern and its language and words are the determining factors. Many principles of natural justice today have been overcome by dictates of statute passed because of the needs of modern society and social welfare. To conclude where a statute either expressly or by necessary implication excludes notice to the aggrieved party in case of requisition of land for public purpose as in the West Bengal Land (Requisition and Acquisition) Act, 1948, is to fly in the face of this statute, Where there is statutory silence there is scope for applying the principles of natural justice but where on a proper interpretation of the statute itself, expressly or by necessary implication, such notice is excluded then it will not be justifiable for any court to re-introduce it on the ground of principles of natural justice. That is also how read the latest pronouncement of the Supreme Court in Civil Appeal No. 500 of 1967 (reported in (1971) 1 SCC 657 : AIR 1971 SC 963) quoted above.”

- 47.** Upon the above observations, the co-ordinate Bench ultimately went on to hold, in Paragraph 46 of the report, that it may also be borne in mind that the whole statute is for the object of “speedy acquisition and requisition”.
- 48.** The appellant also cites *Sri Sailendra nath Pal (supra)*⁵, where the issue at hand in the instant case was clearly dealt with by the co-ordinate Bench and it was ultimately held that the order or requisition passed in respect of the land-in-question would be held to be invalid for not complying with the required provision under Section 3(2) of Act II of 1948 and Rule 3 of the corresponding Rules

⁵ ***Sri Sailendra nath Pal & Ors. v. State of West Bengal & Others*, reported at (2010) 2 Cal LJ 15**

of 1948 and therefore, all subsequent steps taken for acquisition of land-in-question cannot be held also to be valid.

49. Evidently, the co-ordinate Bench, while deciding *Sri Sailendra nath Pal (supra)*⁶ was not favoured with the benefit of the proposition laid down in the earlier judgment of *Mihir Kumar Sarkar (supra)*⁷, which clearly distinguished between a judicial/quasi-judicial and an administrative decision.
50. Moreover, in *Sri Sailendra nath Pal (supra)*⁶, the necessity and effect of a notice under Section 3(2) of Act II of 1948 was not considered at length.
51. Section 3 of the said Act is quoted hereinbelow:

“S.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 areas excluded by the State Government by a notification in this behalf, by the construction or reconstruction of dwelling places in such areas, or for purpose connected where with 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 requisition :*

⁶ ***Sri Sailendra nath Pal & Ors. v. State of West Bengal & Others*, reported at (2010) 2 Cal LJ 15**

⁷ ***Mihir Kumar Sarkar and others v. State of West Bengal and others*, reported at AIR 1972 Cal 8**

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 authorized 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 authorized 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.”*

52. On a careful perusal of the language of the said Section, it is evident that there has to be an order under Section 3(1) for the purpose of requisition. Although sub-section (2) of Section 3 provides for service of such order in the prescribed manner on the owner or the occupier of the land, there is no sanction provided in the statute for non-observance of such provision. In other words, it is not provided

within the four corners of the statute that in the event such a notice is not given, such non-compliance would be visited by the requisition, or for that matter the subsequent acquisition, itself being vitiated.

- 53.** Moreover, the purpose behind giving a notice under sub-Section (2) is also to be considered. There is complete absence of any opportunity to the owners/occupier, even after service of a notice under sub-Section (2) of Section 3, to give a representation or to have a right of hearing at all.
- 54.** Rather, the purpose of a notice under sub-section (2) is only to notify a person that possession of his land would be taken. Sub-section (3) provides that if a person fails to comply with an order under sub-section (1), delivery of possession can be enforced by executing the said order.
- 55.** Thus, it is not the notice under sub-section (2) in compliance of which a person has to vacate the property, but the order under sub-section (1).
- 56.** If the language of sub-section (3) required that a person has to fail to comply with a notice under sub-section (2) for invocation of sub-section (3), it might possibly have been argued that such prior notice is a mandatory pre-requisite of possession. However, sub-section (2) lies in the middle of sub-sections (1) and (3), which are directly connected to each other by a linguistic bridge. Hence, the due procedure laid down in Section 3, as per its scheme, is that an

order under sub-section (1) has to be declared and if a person, who is either the owner or the occupier, fails to comply with such order, delivery of possession may be enforced by the appropriate authority under sub-section (3). Hence, the notice contemplated under sub-section (2) is merely an intermediate step to facilitate delivery of possession by giving the owner/occupier an opportunity to peacefully vacate the subject land, and not intended to give a further right of hearing to the owner/occupier, which the owner/occupier already has at the subsequent stage of Section 4 of the said Act.

- 57.** The statute does not confer any right on the owner/occupier to say “no” or resist an order under Section 3(1), by filing any representation or otherwise. If an order under Section 3(1) is not complied with, possession can be enforced straightway under Section 3(3). Article 300A of the Constitution of India clearly empowers the Legislature to enact law to deprive a person of his right to property “by authority of law” which, in case of land reforms legislations is for the greater public good.
- 58.** Sub-section (1a) of Section 4 of Act II of 1948 provides that land requisitioned under Section 3 may be acquired by publishing a notice in the Official Gazette that such land is required for a public purpose referred to in sub-Section (3)(1).
- 59.** Sub-section (2) of Section 4 provides that where a notice as aforesaid is published, the requisitioned land shall, on and from the

beginning of the day on which the notice is so published, *vest absolutely* in the State Government, *free from all incumbrances* and the period of requisition of such land shall end.

- 60.** Sub-section (1) of Section 5 provides that after the publication of a notice under Section 4(1a), the Collector shall cause a public notice to be given at convenient places on or near the land acquired, stating that the State Government has acquired the land, and that claims to compensation for all interests in such land may be made to him. The subsequent provisions of Section 5 provide for an opportunity to the persons interested in the land to present their respective interests in the land and amount and particulars of their claims, for the limited purpose of assessment of compensation.
- 61.** Thus, where the Legislature intends opportunity of hearing to be given, it has been given under Section 5 of Act II of 1948, for the limited purpose of assessing and apportioning compensation.
- 62.** However, no such right of hearing or opportunity of representation is given in consequence of a notice under Section 3(2) of the Act. On the contrary, the enforcement of delivery of possession under sub-section (3) of Section 3 follows upon non-compliance of the *order under Section 3(1)*, and *not a notice under Section 3(2)*.
- 63.** Thus, a threadbare examination of the aforesaid provisions indicates that a notice under Section 3(2) is merely to facilitate implementation of the order under Section 3(1), in order to avoid unnecessary hindrances in the possession being taken under sub-

section (3). Sub-section (2), thus, was never meant to afford any opportunity of hearing to the owner/occupier.

- 64.** Thus, in any event, no prejudice whatsoever would be caused to the owner/occupier by non-service of a notice under Section 3(2). Sub-section (2) of Section 3 is designed to aid the State Government, to facilitate implementation of an order under Section 3(1), and not meant for the owners/occupier, whose opportunity of representation comes later under Section 5 for the limited purpose of compensation.
- 65.** Accordingly, the argument of violation of principles of natural justice is not attracted, since the administrative requirement of sub-section (3)(2), as distinguished from a judicial/quasi-judicial decision, as held in *Mihir Kumar Sarkar (supra)*⁸, does not attract the principle of *audi alteram partem* at all.
- 66.** This view is further strengthened by the judgment of the Hon'ble Supreme Court in *May George (supra)*⁹. In the said report, while considering Section 9 of the LA Act, the Hon'ble Supreme Court held as follows:

“14. Section 9 of the Act provides for an opportunity to the “person interested” to file a claim petition with documentary evidence for determining the market value of the land and in case a person does not file a claim under Section 9 even after receiving the notice, he still has a right to make an application for making a reference under Section 18 of the Act. Therefore,

⁸ *Mihir Kumar Sarkar and others v. State of West Bengal and others*, reported at AIR 1972 Cal 8

⁹ *May George v. Special Tahsildar and Others*, reported at (2010) 13 SCC 98

the scheme of the Act is such that it does not cause any prejudicial consequence in case the notice under Section 9(3) is not served upon the person interested.

15. *While determining whether a provision is mandatory or directory, in addition to the language used therein, the Court has to examine the context in which the provision is used and the purpose it seeks to achieve. It may also be necessary to find out the intent of the legislature for enacting it and the serious and general inconveniences or injustice to persons relating thereto from its application. The provision is mandatory if it is passed for the purpose of enabling the doing of something and prescribes the formalities for doing certain things.*

25. *The law on this issue can be summarised to the effect that in order to declare a provision mandatory, the test to be applied is as to whether non-compliance with the provision could render the entire proceedings invalid or not. Whether the provision is mandatory or directory, depends upon the intent of the legislature and not upon the language for which the intent is clothed. The issue is to be examined having regard to the context, subject-matter and object of the statutory provisions in question. The Court may find out as to what would be the consequence which would flow from construing it in one way or the other and as to whether the statute provides for a contingency of the non-compliance with the provisions and as to whether the non-compliance is visited by small penalty or serious consequence would flow therefrom and as to whether a particular interpretation would defeat or frustrate the legislation and if the provision is mandatory, the act done in breach thereof will be invalid.*

26. *The instant case is required to be examined in the light of the aforesaid settled legal provision. In fact, failure of issuance of notice under Section 9(3) would not adversely affect the subsequent proceedings including the award and title of the*

Government in the acquired land. So far as the person interested is concerned, he is entitled only to receive the compensation and therefore, there may be a large number of disputes regarding the apportionment of the compensation. In such an eventuality, he may approach the Collector to make a reference to the Court under Section 30 of the Act.

27. *In G.H. Grant (Dr.) v. State of Bihar [AIR 1966 SC 237] this Court has held that if a “person interested” is aggrieved by the fact that some other person has withdrawn the compensation of his land, he may resort to the procedure prescribed under the Act or agitate the dispute in suit for making the recovery of the award amount from such person.*

28. *In fact, the land vests in the State free from all encumbrances when possession is taken under Section 16 of the Act. Once land is vested in the State, it cannot be divested even if there has been some irregularity in the acquisition proceedings. In spite of the fact that Section 9 notice had not been served upon the person interested, he could still claim the compensation and ask for making the reference under Section 18 of the Act. There is nothing in the Act to show that non-compliance therewith will be fatal or visit any penalty.*

29. *The view taken by us hereinabove stands fortified by a large number of judgments of this Court wherein it has been held that if there is an irregularity in service of notice under Sections 9 and 10, it could be a curable irregularity and on account thereof, award under Section 11 would not become invalid (see State of T.N. v. Mahalakshmi Ammal [(1996) 7 SCC 269] and Nasik Municipal Corpn. v. Harbanslal Laikwant Rajpal [(1997) 4 SCC 199]).*

- 67.** A Division Bench of the Mysore High Court also held in similar tune in *M/s Hunuikeri Bros (supra)*¹⁰.
- 68.** The appellant relies on a Constitution Bench judgment of the Hon'ble Supreme Court in *S.M. Nandy (supra)*¹¹. The Constitutionality of Act II of 1948 was challenged therein. While holding the statute to be *intra vires*, the Hon'ble Supreme Court *inter alia* took into consideration that there is nothing in the impugned Act which prevents a person on whom an order has been served under Section 3(2) to make representation to the Collector or the State Government against the order of requisition.
- 69.** In Paragraph 4 of the said judgment, the Hon'ble Supreme Court held that it was not concerned with the acquisition in the said case but may mention that the State Government may acquire any land requisitioned under the Act by publishing a notice in the Official Gazette that such land is required for a public purpose referred to in sub-section (1) of Section 3.
- 70.** In such context, in Paragraph 9 of the judgment, the Hon'ble Supreme Court observed that *it is difficult to hold that restrictions imposed by the impugned Act are unreasonable*. While doing so, the Hon'ble Supreme Court also found that *it is true that there is no express provision to make a representation against an order of*

¹⁰ *M/s. Hunuikeri Bros. v. Asst. Commissioner, Dharwar Division, and another, reported at 1961 SCC OnLine Kar 146*

¹¹ *S.M. Nandy and others v. The State of W.B. and others, reported at (1971) 1 SCC 688*

requisition but there is no bar to a representation being made after an order is served under Section 3(2) of the Act. The Hon'ble Supreme Court expressed that it had no doubt that if the representation raises a point which overrides the public purpose it would be favourably considered by the State Government or other Government Authorities as the case may be. (*Emphasis supplied for stress in this paragraph*).

- 71.** Thus, while expressing the expectation that if a representation was made which overrode the public purpose, it would be favourably considered by the State Government, simultaneously, the Hon'ble Supreme Court clearly laid down that there is no express provision to make a representation against an order of requisition.
- 72.** In the present case, the appellant seeks to argue that the subsequent acquisition proceeding itself was vitiated on the ground of non-service of notice under Section 3(2). Thus, to have a favourable order on such score, the appellant has to show that she had a legal right in the first place which has been infringed by such non-service.
- 73.** In view of the observation of the Constitution Bench of the Hon'ble Supreme Court in *S.M. Nandy (supra)*¹², to the effect that there is no express provision to make a representation against an order of requisition under Section 3(1), the principle laid down in *May*

¹² *S.M. Nandy and others v. The State of W.B. and others, reported at (1971) 1 SCC 688*

*George (supra)*¹³, is squarely applicable. Thus, it is evident that the co-ordinate Bench judgment of this court in *Sri Sailendra nath Pal (supra)*¹⁴, relied on by the appellant, is not good law.

- 74.** The dilemma which we now face is whether to refer the question to a Larger Bench or to decide ourselves, being a co-ordinate Bench, that the judgment rendered in *Sri Sailendra nath Pal (supra)*¹⁴, was *per incuriam*.
- 75.** If a doubt was expressed for the first time by us regarding the proposition laid down in *Sri Sailendra nath Pal (supra)*, which was not corroborated by any other judgment of this Court or the Supreme Court, definitely the only course of action left for us would be to refer the matter to a Larger Bench, expressing our specific doubt with regard to the proposition laid down in the earlier judgment and formulating the same as the point of reference.
- 76.** However, the law of precedence is otherwise when an earlier judgment is contrary to and in the teeth of a still-earlier proposition laid down by a Bench of same strength or larger strength.
- 77.** As discussed above, the proposition laid down in *Sri Sailendra nath Pal (supra)* was patently contrary to that mooted in *Mihir Kumar Sarkar (supra)*¹⁵, which was an earlier decision of a co-ordinate Bench. Moreover, although rendered in the context of the LA Act,

¹³ ***May George v. Special Tahsildar and Others, reported at (2010) 13 SCC 98***

¹⁴ ***Sri Sailendra nath Pal & Ors. v. State of West Bengal & Others, reported at (2010) 2 Cal LJ 15***

¹⁵ ***Mihir Kumar Sarkar and others v. State of West Bengal and others, reported at AIR 1972 Cal 8***

the universal proposition laid down in Paragraphs 14, 15, 25, 26 and 28 of *May George (supra)*¹⁶ hold good and bind us. Thus, by necessary implication, *May George (supra)*¹⁶, decided on May 25, 2010, overruled the proposition laid down by the co-ordinate Bench of this Court in *Sri Sailendra Nath Pal (supra)* on March 24, 2010.

78. Hence, with utmost respect, we hold that the proposition laid down in *Sri Sailendra nath Pal (supra)*¹⁷, is *per incuriam*, being contrary to that enunciated in *Mihir Kumar Sarkar (supra)*¹⁸, which was rendered by a still-earlier equal strength Bench of this Court, and impliedly overruled by the proposition laid down subsequently in *May George (supra)*¹⁹, by the Hon'ble Supreme Court.

79. Hence, this issue is decided against the appellant. We hereby hold that non-service of a notice under Section 3(2) of Act II of 1948 does not vitiate the requisition and/or the subsequent acquisition proceeding.

Whether, in the facts of the present case, there was due compliance with Section 3 and Section 4 of Act II of 1948.

80. Before deciding this issue, we are to take note of the fact that this Bench is sitting in an intra-court appeal over a view already expressed by a competent learned Single Judge of the same Court.

¹⁶ *May George v. Special Tahsildar and Others, reported at (2010) 13 SCC 98*

¹⁷ *Sri Sailendra nath Pal & Ors. v. State of West Bengal & Others, reported at (2010) 2 Cal LJ 15*

¹⁸ *Mihir Kumar Sarkar and others v. State of West Bengal and others, reported at AIR 1972 Cal 8*

¹⁹ *May George v. Special Tahsildar and Others, reported at (2010) 13 SCC 98*

Thus, this Bench does not have the liberty to operate on the wider footing of the original Writ Court but has to be restricted to an inquiry as to whether the view taken by the learned Single Judge was plausible or not.

81. Viewed from such perspective, we cannot lose sight of some of the cardinal facets of the present case, which are enumerated below:

- (i) Prafulla Kumari Dutta, the predecessor-in-interest of the appellant, admittedly died in the year 1950. However, the purported extracts of Records of Rights relied on by the appellant who, being the writ petitioner, was the *dominus litis* in the case, were attested much subsequent to 1950. Thus, the veracity of such recording of the name of a deceased person comes under the scanner.
- (ii) The appellant relies on a *suo motu* proceeding initiated under Section 44(2a) of the 1953 Act in the year 2005. Even if we go by the same, the directions of the appropriate authority in the said proceeding, indicating that the name of the predecessor-in-interest Prafulla Kumari Dutta was originally recorded and, to such extent, the Records of Rights should be corrected, came much subsequent to the culmination of the acquisition proceeding-in-question. The Notification under Section 4(1a) of Act II of 1948 was published on October 17, 1974, *vide* no. 21901-LA (P. W.) 2R-157/74.

Thereafter, the land was duly acquired and handed over to the requiring body/KMDA on December 18, 1973. Admittedly, a license was executed by the requiring body in favour of a third party, to fructify the public purpose for which the land was acquired, on May 22, 2003.

- 82.** Thus, neither the Records of Rights nor the order passed under Section 44 (2a) of the 1953 Act could operate to vitiate the present acquisition.
- 83.** The State has produced documents to indicate that at the relevant point of time, the Records of Rights stood in the name of persons other than either the appellant or her predecessor-in-interest. Possession certificate has been produced to show that possession was duly taken from such recorded owners.
- 84.** A Gazette Notification in respect of the publication under Section 4(1a), clearly mentioning the person authorised, was also placed before the Writ Court. Hence, the argument as to the concerned LA Collector not being the appropriate authority, raised by the appellant, is also an afterthought and cannot be accepted.
- 85.** Even documents of payment of compensation in terms of the award to the recorded owners have been produced by the State.
- 86.** The actual owners never raised any objection regarding non-issuance of notice under Section 3(2) or non-compliance of the provisions of Section 3 of Act II of 1948.

- 87.** The argument as to the seal of the LA Collector 24-Parganas (South) appearing in the Section 3 (2) notice cannot vitiate the same, since the notice contains the seal of the LA Collector 24-Parganas as well and there might have been a subsequent superfluous entry with regard to 24-Parganas (South). However, in the absence of anything else, it would be too much to hold that the notice itself is vitiated by fraud on the ground of such minor discrepancy alone.
- 88.** As to the space for address of noticee being left vacant in the notice, the second page of the same, which is the notice part [the first page being the order under Section 3(1)], clearly contains all particulars, thus negating such argument of the appellant.
- 89.** Again, the appellant insinuates that the order under Section 3 (1) directed possession to be handed over, which, according to the appellant, is a step-jump, bypassing the scheme of sub-Section (2) of Section 3 of Act II of 1948. However, such argument is not tenable in the eye of law, since sub-Section (2) does not contemplate any “notice” as such but merely requires a copy of the “order” passed under sub-Section (1) to be served. Such service, as is obvious from the scheme of the Section, is to facilitate implementation of the order passed under sub-Section (1).
- 90.** The language of sub-Section (3) is that “if any person fails to comply with an order made under sub-section (1)”, possession shall be enforced in terms thereof.

- 91.** Sub-section (1) empowers the appropriate authority not only to requisition the subject-land by such order, but also to make “such further orders as appear to be necessary or expedient in connection with the requisitioning”.
- 92.** The aforementioned provisions, read in conjunction, thus contemplate that the order passed under sub-Section (1) ought also to contain a missive to the owner/occupier to deliver vacant possession; otherwise, there would be no scope for the owner/occupier “failing to comply” with the order, triggering into operation sub-Section (3) to “enforce delivery of possession”.
- 93.** Even otherwise, there is no substantial pleading in the writ petition as to how the appellant inherited the property from her predecessor-in-interest, nor has any document of title of either the appellant or her alleged predecessor-in-interest, namely Prafulla Kumari Dutta (since deceased), been produced before the court.
- 94.** Moreover, Records of Rights have been produced by the State, which are contrary to those produced by the appellant, to indicate that other persons than the predecessor-in-interest of the appellant were the recorded owners of the subject-plots at the relevant point of time.
- 95.** The argument that RS operations had not started in the year 1955 is incorrect, since such operations had started around that time, on the coming into force of the 1953 Act.

- 96.** In *S. Palani Velayutham (supra)*²⁰, cited by the KMDA, the Hon'ble Supreme Court delineated the scope of enquiry by a Collector in an acquisition proceeding. It was held therein that there is no obligation on the part of the Collector to hold an enquiry to find out whether there are any other persons interested in the land or whether there are any vested remaindermen, in addition to those whose names are entered as the owners/holders/occupiers of the acquired land, nor does the Collector have any obligation to issue notices to persons whose names are not entered in the Revenue Records.
- 97.** It was held that this does not mean that the persons whose names are not entered in the Revenue Records do not have any right in the acquired land or that they lose their claim to compensation. Their interests on rights in regard to compensation are protected by the provision relating to apportionment of compensation and provision for referring the disputes to a Civil Court for such apportionment.
- 98.** The Collector, it was held, is not expected to hold any enquiry to find out whether the persons whose names are disclosed (other than those whose names are entered in the Revenue Records) are persons interested in the acquired land or not. Therefore, it was observed, no person has any right to assert that the Collector should recognise him to be a person interested in the acquired land and issue notice to him, merely because someone informs the Collector that such

²⁰ ***S. Palani Velayutham and others v. District Collector, Tirunelveli, Tamil Nadu and others, reported at (2009) 10 SCC 664***

person is also having an interest, if his name is not entered in the Revenue Records.

99. Although there is some distinction between the language of Section 9 (3) of the LA Act, which was being considered in the said report and contemplates service of notice on persons “believed” to be interested in the acquired land, and that of the present Act, that is Act II of 1948, where the “owner or occupier” is to be served, fact remains that the Collector, while making such an enquiry, does not assume the character of a Civil Court.

100. The Collector, for the limited purpose of ascertaining the owners/occupier, has only to look at the Records of Rights as those existed at the relevant point of time, and not to undertake a roving enquiry into the question as to there are any persons other than the recorded owners who may be interested in the land.

101. Thus, since sufficient *prima facie* material was produced before the Writ Court in the present case to show that the entries in the Records of Rights were in the names of persons other than the appellant or her predecessor-in-interest at the relevant point of time, which is further strengthened by the fact that there was a *suo motu* correction under Section 44(2a) of the 1953 Act much thereafter, there was no flaw in compliance with Sections 3 and 4 of Act II of 1948 in the present case,

102. Hence, a perfectly plausible view was taken by the learned Single Judge while passing the impugned order, taking into consideration

all materials placed before the said Court. Accordingly, we hold this issue against the appellant as well, coming to the finding that sufficient *prima facie* material was produced before the Writ Court to show that there was due and substantial compliance of Section 3 and Section 4 of Act II of 1948.

Locus Standi and alternative remedy

103. We take up the above two questions together for the sake of convenience and brevity.

104. As held in *May George (supra)*²¹, as well as *Mihir Kumar Sarkar (supra)*²², respectively by the Hon'ble Supreme Court and a co-ordinate Bench of this Court, sufficient remedy is available to the owner/occupier of a land, even if his or her name is not recorded in the Records of Rights and/or a notice under Section 3(2) of Act II of 1948 is not given, to ventilate their grievance under Section 5 of the said Act, in response to a notice under Section 4(1a) thereof. Even subsequently, after the award is passed, grievances may be ventilated before the Reference Court under Section 8 of Act II of 1948, read with Section 18 of the LA Act, with regard to entitlement, apportionment and other issues relating to the grant of award.

105. However, under Section 4(2) of Act II of 1948, where a notice is published in the Official Gazette under Section 4(1a) of the said Act,

²¹ ***May George v. Special Tahsildar and Others, reported at (2010) 13 SCC 98***

²² ***Mihir Kumar Sarkar and others v. State of West Bengal and others, reported at AIR 1972 Cal 8***

the requisitioned land vests absolutely in the State Government free from all encumbrances. The expressions “vests absolutely” and “free from all incumbrances”, categorically clarify that once vested, the land cannot be divested.

106. Thus, after the stage of publication of Notification under Section 4 (1a) is crossed, the appropriate remedy available to an aggrieved party is to seek a reference under Section 8 of the said Act, read with Section 18 of the LA Act. The clock cannot be set back by challenging the entire acquisition proceeding itself on the flimsy ground that no notice under Section 3(2) of the said Act was served.

107. Hence, after the award was passed, the remedy before the present appellant was to seek a reference as indicated above, and not by way of a writ petition.

108. Also, on the ground of *locus standi*, the appellant has miserably failed to produce a single title deed in her favour or in favour of her predecessor-in-interest, Late Prafulla Kumari Dutta. The sole document on which the appellant rests her case of title is the Records of Rights produced by the appellant, which is also shrouded in suspicion, since the entries therein, in the name of the appellant’s predecessor-in-interest, were apparently attested at a point of time when the said predecessor was already deceased.

109. The technical flaws sought to be raised by the appellant in the order under Section 3(1) were never raised at any point of time prior to filing the writ petition, that is, after the entire requisition,

acquisition and vesting was over, awards had been declared in the name of the recorded owners and compensation had substantially been disbursed in their favour. The subject-plots had even been handed over to the requiring body and licence had been granted by the said requiring body in favour of a third party in pursuance of the public purpose for which the land was initially requisitioned and thereafter acquired.

110.Hence, the appellant has failed to substantiate her *locus standi* to challenge the preceding requisition, having not challenged the subsequent acquisition process in due course of law and having failed to substantiate her right, title and interest in the property-in-question.

111.Accordingly, the writ petition was also otherwise barred due to availability of alternative remedy and due to lack of *locus standi* of the appellant to prefer the same.

CONCLUSION

112.In fine, in view of the above findings, this Court comes to the conclusion that the learned Single Judge adopted one of the plausible views on the basis of the materials before the said Court in dismissing the writ petition of the appellant. Hence, particularly within the limited confines of an intra-court appeal, there is no scope whatsoever of interfering with the impugned judgment.

113.Accordingly, APO No. 82 of 2025 is dismissed on contest, thereby affirming the judgment impugned therein.

114. Consequentially, IA No. GA 1 of 2025, stands disposed of as well.

115. No order as to costs.

116.Urgent certified copies, if applied for, be supplied to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)