

22.08.2024
Item No.21
gd/ssd

WPA/28452/2014
TARAKNATH GANGULY & ORS.
VS
SILIGURI JALPAIGURI DEVELOPMENT
AUTHORITY & ORS.
IA NO: CAN/1/2023

Mr. Debashis Kundu, Sr. Advocate,
Mr. Saumyen Datta,
Mr. Rajendra Nath Barik
..for the petitioners.

Mr. Naba Kumar Das,
Mr. Pathik Bandhu Banerjee
..for SJDA.

Mr. Supratim Dhar
..for the State.

The petitioners claim to be the owners of RS Plot Nos.248, 423, 423/672 and 423/996 within Mouza – Dabgram, JL No.2 under Police Station – Rajganj measuring about 0.65 acres.

The Siliguri Jalpaiguri Development Authority (for short, SJDA) in its affidavit affirmed on 11th August, 2016 stated that an area of about 1.85 acres of land comprising the aforesaid plots of land have been under possession of SJDA since 2003 on the mistaken notion that the land was also acquired by the State of West Bengal along with various other plots of land. Pursuant to an order dated 16th May, 2012 passed in WP 1855(W) of 2009 the SJDA has handed over possession of the unutilized land

measuring about 1.20 acres to the petitioners through their constituted attorney on January 22, 2013. It has further been stated in the said affidavit that the balance land measuring about 0.65 acres out of the said 1.85 acres has since been utilized by SJDA and the same is required to be acquired and compensation to be paid to the petitioners. The SJDA claims to have forwarded proposals before the District Magistrate and Collector, Jalpaiguri requesting him to initiate a proceeding for acquisition of the said 0.65 acres of land.

Mr. Kundu, learned Advocate for petitioners submits that till date no proceedings for acquisition of the aforesaid land measuring about 0.65 acres have been initiated and no compensation has been paid though admittedly the said land has been utilized by SJDA.

Mr. Kundu submits that a direction should be passed upon the respondent authorities to initiate appropriate proceedings for acquisition of the said land measuring about 0.65 acres in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the 2013 Act).

Mr. Kundu, however, submits that the possession of the land was taken long prior to 2003.

Pursuant to the order dated 8th August, 2024 a report in the form of an affidavit affirmed on August 21, 2024 has been filed in court today which is taken on record.

A copy of such report has been supplied to the learned Advocate for the petitioners and the State in course of hearing of this writ petition.

It appears from the said affidavit that SJDA has admitted that there was no formal acquisition of the petitioners' land in question. It has further been admitted that 0.65 acres of land has been utilized and 18 stalls have been constructed but the same has not been distributed in view of the pendency of the court case. It is further stated in the said affidavit that the 3rd respondent, namely, the Chief Executive Officer, SJDA vide Memo 1054/1/Admn/279/14/SJDA dated August 21, 2024 wrote to the Principal Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal to take a decision on the issue of Direct Purchase Policy as per the Memorandum dated September 06, 2019.

Mr. Dhar, learned Advocate appearing for the State submits that the District Magistrate and Collector informed the SJDA that the Land Acquisition Act, 1894 is repealed with effect from 1st January, 2014 and the 2013 Act has come into

existence and hence, the acquisition proceedings cannot be initiated as per GO dated 13.2.2014 of the Land and Land Reforms Department. The District Magistrate and Collector by a letter dated 9th July, 2014 requested the SJDA to apply to the appropriate authority under the Purchase Policy of the Government as per the Memorandum dated 24.11.2014.

It is not in dispute that the property of the petitioners have been utilized without initiating any proceeding for acquisition of the same.

Record reveals that the SJDA and the State are only exchanging correspondences between themselves but no positive step in this regard appears to have been taken by the respondent authorities.

Owner of the property cannot be deprived of his right to the property without being compensated in accordance with the provisions of the relevant statute. The possession of the land was taken on or before the year 2003 and till date no positive steps have been taken for initiating any proceeding for acquisition.

In view thereof, the competent authority of the State is directed to initiate appropriate proceeding for acquisition under the provisions of the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 immediately upon a requisition being sent in that regard by the requiring body. The SJDA being the requiring body is directed to send a requisition before the competent authority of the State Government for acquisition of the aforesaid land measuring about 0.65 acres as expeditiously as possible but positively within a period of three weeks from the date of receipt of a server copy of this order.

Immediately upon receipt of the said requisition, the appropriate authority of the State Government shall initiate proceedings under the 2013 Act, determine the amount of compensation and pay the same to the writ petitioners, if they are entitled to or the person interested. The entire exercise shall be completed by the appropriate authority of the State Government within a period of eight weeks from the date of receipt of the requisition from the SJDA.

Till the compensation in respect of 0.65 acres of land is paid, the SJDA is restrained from distributing the stalls or any portion of the constructed area within the aforesaid 0.65 acres of land

Liberty is granted to the petitioners to approach the appropriate authority for compensation for the period from the date of taking possession of

the land in question till the date of initiation of the proceeding for acquisition.

If such an approach is made, the competent authority is directed to consider such claim and dispose of the claim within a period of eight weeks from the date of receipt of a representation in that regard upon giving an opportunity to the petitioners and the requiring body and/or any other person interested.

With the above observations and directions, the petition stands disposed of.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)