

Form J(2)

**IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
Appellate Side**

**Present :  
The Hon'ble Justice Bibek Chaudhuri**

**WPA 24344 of 2023**

**Timir Baran Pramanick  
Vs.  
The State of West Bengal and Ors.**

**For the petitioner : Ms. Reshmi Ghosh  
Ms. Barnali Gantait**

**For the State : Mr. Chandi Charan De,  
Addl. Govt. Pleader  
Mr. Anirban Sarkar**

**Item No. 09**

**Heard & Judgement on : 17.10.2023**

**Bibek Chaudhuri, J.**

Indisputably by an acquisition proceeding the land of the predecessor-in-interest was acquired under the provision of the Act I of 1894 sometimes in 1968-69 for Salt Lake Reclamation Project.

It is the case of the petitioner that a piece of land measuring about 3.59 acres was not required in the said project. The said fact was intimated by the Executive Engineer, Salt Lake Reclamation

Division to the Assistant Secretary, Government of West Bengal, Metropolitan Development Department. It is clearly stated that the land measuring about 3.59 acres situated in such a position where the operation of reclamation work was difficult to proceed and also found not necessary for the project. So, the said land was lying in unclaimed position as before and it was kept outside the boundary of the project. Subsequently, the Deputy Secretary, Land and Land Reforms Department, Government of West Bengal issued a letter to the L.A. Collector, North 24 Parganas to transfer process of the said land in favour of the person from whom acquisition was made. It is also stated by the petitioners that the acquisition was made only on paper all along the petitioner and before him his predecessor-in-interest was in physical possession of the said land. In spite of such decision having been taken by the State Respondents and for initiation of process of transferring his land in favour of the petitioner the Collector directed the petitioner to deposit the compensation amount which was actually paid and received by the L.A. Collector. The State Respondents were delaying return of the said land in favour of the petitioner. This led the petitioner to file WP No.21972(W) of 1999. The said writ petition was disposed of on 12<sup>th</sup> September, 2005 by a Co-ordinate Bench holding, inter alia, that the acquisition proceeding had terminated long ago and the acquired land stood

vested in the Government. Therefore, there is no scope for the petitioner to get back said land which has been vested to the State by acquisition process. Accordingly, the said writ petition was dismissed. However, the Collector, North 24 Parganas was directed to refund compensation amount of Rs.5616.37/- to the persons who deposited such sum to the legal heirs and representatives as the case may be with interest at the rate of 18 per cent per annum to be paid for the period from December 21, 1994 to December 06, 1999. It is pointed out by the learned advocate for the petitioner that though L.A. Collector tendered the said amount, the petitioner did not receive it. Subsequently, the petitioner preferred an appeal against the said judgment of WP No.21972(W) of 1999. The said appeal was registered as FMA 1882 of 2006. The Division Bench of this Court dismissed the appeal on contest. Thus, the judgment in the above numbered writ petition by a Single Bench was affirmed. Assailing the said judgment the petitioner in Indore Development Authority versus Manoharlal and Others filed an I.A. No. 170346 of 2019 before the Hon'ble Supreme Court. Subsequently, the learned counsel sought for permission to withdraw the said application with liberty to file an appropriate application to initiate independent proceedings. Accordingly, the said application was rejected giving liberty to the petitioner to initiate independent proceedings with a direction that

when such an application is filed, it shall be considered in accordance with law and on its own merits.

After disposal of IA No. 170346 of 2019 by the Hon'ble Supreme Court, the petitioner has preferred the instant appeal with a prayer to issue a writ in the nature of mandamus commanding the respondents to release 3.59 acres of land immediately recorded in C.S. plot No. 4430/6284 at Mouza Krishnapur and Mahishbathan, North 24 Parganas. The petitioner has also prayed for cancellation and/or recession of the letter dated 6<sup>th</sup> December, 1999 issued by the State Respondents.

It is contended by the learned advocate for the petitioner that as per the decision taken by the competent officers in the State Government the land in question is required to be resettled and relinquished in favour of the petitioner. Subsequently, the L.A. Collector informed the petitioner that the subject land was acquired and vested to the State and, therefore, the said land cannot be resettled in favour of the petitioner. The learned advocate for the petitioner submits that the subject land was not acquired in accordance with the provision of Act I of 1894. Acquisition is complete on declaration of award. In the instant case award was declared and admittedly paid to the petitioner. Subsequently, L.A. Collector held that the subject land is not required for any public purpose and it

would be resettled in favour of the petitioner. On this score, L.A. Collector directed the petitioner to deposit the compensation amount with the Collectorate. He deposited the entire compensation amount in the treasury. Moreover, till date physical possession of the land has not been taken by the acquiring authority. Thus, the petitioner is entitled to get back the land in question. In the alternative he is entitled to get fair compensation, rehabilitation and resettlement under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

The learned Additional Government Pleader has opposed the prayer made on behalf of the petitioner. It is submitted by him that once a property vests in the State, it cannot be divested. There is no provision in Act I of 1894 for relinquishment of vested land in favour of the land owner. It appears from the order passed in WP 21972 (W) of 1999 that a Co-ordinate Bench held that the petitioner is only entitled to compensation and directed the State Respondents to repay the compensation amount with interest at the rate of 18 per cent per annum. Thus, this order was affirmed by the Division Bench. Thus, the issue relating to vesting of subject land and question of payment of compensation has been finally settled. Thus, question cannot be reopened at this stage.

Having heard the learned advocates for the petitioner and the State Respondents and on careful perusal of entire materials on record I find that the acquisition proceeding in respect of subject land was complete and the land was vested in the State. Therefore, there is no scope for relinquishment of the subject land or any part thereof specially when the acquisition proceeding was concluded by publishing the award and payment made thereunder. This Court also finds that Section 24(2) is not applicable under the facts and circumstances of this case because of the fact that the subject land was vested to the State and compensation has been paid. It is immaterial as to whether the petitioner accepted the compensation or award once award is published after vesting of land. Section 24(2) of the Right to Fair Compensation and Transparency Act, 2013 has no manner of application.

In view of the above discussion, I do not find any merit in the instant writ petition. Accordingly, the instant writ petition is **dismissed.**

However, there shall be no order as to costs.

**(Bibek Chaudhuri, J.)**

