



GOVERNMENT OF WEST BENGAL
Office of the District Magistrate, Birbhum
(Land Acquisition Section, 2nd Floor)
Suri, Birbhum

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Memo.No. / L.A.

Dated / / 2022.

To,

- 1) Mr. Chandi Charan De**
Ld. Addl. Government Pleader
High Court at Calcutta.
- 2) Mr. Anirban Sarkar**
Ld. State Advocate (Gr.C)
High Court at Calcutta.

Sub: Submission of **Brief history, Statement of facts** along with relevant papers/documents in respect of **WPA no. 7258 of 2022 in the matter of Ekdant Investment Advisory Private Limited -vs- The State of WB & Ors.**

Sir/Madam,

Furnished herewith the **Brief history, Statement of facts** along with relevant papers/documents in respect of **WPA no. 7258 of 2022 in the matter of Ekdant Investment Advisory Private Limited -vs- The State of WB & Ors.** for your kind information and perusal.

Yours faithfully,

Enclo:- As stated above.

Special Land Acquisition Officer, Birbhum
&
As competent authority of Land Acquisition .
For National Highways Entrusted to State PWD, WB.
Suri, Birbhum

NOTE SHEET

Date

Office of the District Magistrate, Birbhum
(Land Acquisition Section, 2nd Floor)

31.05.2022

This is for your kind information that Mr. Chandi Charan De Ld. Addl. Government Pleader High Court at Calcutta.Mr. Anirban Sarkar Ld. State Advocate (Gr.C) High Court at Calcutta have been appointment as State advocates to defend the case in respect of WPA no. 7258 of 2022 in the matter of Ekdant Investment Advisory Private Limited –vs- The State of WB & Ors.

To this extent, a draft letter along with **the Brief History and Statement of Facts along with papers/documents in respect of the aforesaid WPA has been prepared and the same please be seen and signed, if approved.**

Addl. LAO
Suri, Birbhum

Spl. LAO
Suri, Birbhum

Brief history in respect of WPA no 7258 of 2022 in the matter of Ekdant Investment Advisory Private Limited –vs- The State of WB & Ors.

The writ petitioner has approached the Hon'ble High Court, Calcutta to issue a writ/direction in the nature of mandamus commanding the respondent no-3 i.e. the Special Land Acquisition Officer, Birbhum and CALA **to issue payment of notices for acquiring the plot** of land of the petitioner for "Construction of ROB and its approaches in lieu of Level Crossing No - 21/SPL/ E at Km- 338.000 of NH- 60 in the District of Birbhum, West Bengal" and **to pay the fair market price for the acquisition of the plot** of land with structure at district Birbhum Mouza- Abdarpur, J.L No-97, in respect of the plot nos- **647, 648, 649, 649/1155, 651** acquired by the LA collector under **LA case 4/2016-17** and **to pay the compensation of Rs.7,48,627.00 for demolishing the boundary wall.**

The facts of the case, in brief, is that the L.A Case no- 04/16-17 was initiated by the collector, Birbhum at the instance of the Superintending Engineer, N.H. Planning & Design Circle, P.W. (Roads) Directorate. Khadya Bhaban, Block- 'A', 2nd Floor, 11A, Mirza Gallib Street, Kolkata- 700087 for "Construction of ROB and its approaches in lieu of Level Crossing No - 21/SPL/ E at Km- 338.000 of NH- 60 in the District of Birbhum, West Bengal".

Acquisition process of land in question and announcement of award have been made u/s-3G of the National Highways Act, 1956 observing all the legal formalities. The writ petitioner's lands in question were acquired by the Special Land Acquisition Officer, and competent authority of land acquisition for National Highways entrusted to State PWD, WB, Suri, Birbhum under the provision of Sec-3A to 3J of the National Highways Act, 1956 and making of award along with grant of compensation has been made keeping in view the Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

It is an admitted position **that the possession of the land in question was delivered on 16-03-2018** to the R.B- the Executive Engineer, P.I.U., R.O.B, West Zone- 2, Sarak Bhaban, Siuri, P.W. (Roads).

There is an averment outlined **in para-3** of the writ petition that he got the conversation certificate in respect of the plot no-648 & 651 wherein the classification Baid has been converted in the name and style of "**Ekdant Investment Advisory Private Limited**" and **he seeks the fair compensation on the basis of the classification.**

The writ petitioner averred **in para-8** that he had made objection against the payment notices served upon him saying that the rate of the land and the valuation of structure on the suit plots were not assessed according to the market price by the respondent authority.

It is alleged by the writ petitioner that the respondent authority failed to assess the actual land to be acquired from the plot in question citing the reason that the respondent authority had used hand sketch map instead of using LR published Map.

The office strongly denies the above allegations. The following submissions are made below in the light of the aforesaid allegation –

Before filing this instant writ petition, the writ petitioner had made a series of representations for paying fair compensation as per market price and demarcation of the suit plots. Each representation was taken into account carefully and considered. The office had made **joint survey for demarcation of boundary line on three occasions dtd. 21.02.2019, 25.06.2019 & 31.07.2019 in presence of Sishir Kumar Ghosh for "Ekdant Investment Advisory Private Limited".**

Despite fixing boundary line, the **writ petitioner has been raising boundary disputes** and the writ petitioner has alleged that the said demarcation was carried out was not in according with the site plan.

The question pressed before the survey team is **as to whether the boundary wall is without the purview of existing road or not.** The enquiry report with **signatures of Sishir Kumar Ghosh, NH Officials and LA Officials** is enclosed for kind perusal. In case of the plot no. 651 the writ petitioner was satisfied with the way the demarcation was done on 31/07/2019.

In respect of the other plots, **the demarcation could not be convinced for utter non-co-operation of the writ petitioner. The petitioner did not want to understand in any way. This office tried its best to convince the writ petitioner.** The way the demarcation was made did not satisfy the writ petitioner.

After that, another date for demarcation work was fixed on 25.06.2019 to resolve the problem raised by the writ petitioner. During the demarcation work, the writ petitioner had been making loud clamor. Under any condition, the writ petitioner was not consistent with the demarcation work. But the office completed the demarcation work for the remaining plots. **Being dissatisfied with the demarcation, the writ petitioner sometimes left the spot in the middle of the survey, being angry.**

Being dissatisfied with and aggrieved by, there appeared the WPA being **no-20734 of 2019 before Hon'ble High Court, Calcutta** filed earlier by the writ petitioner ventilating the same grievances as mentioned in the present WPA and alleged that **the market price of the land has not been assessed on the basis of the present classification and to identify the boundary wall.**

On 23.09.2021, the Hon'ble High Court, Calcutta had passed an order directing to consider and dispose of the representation after giving opportunity of hearing to all the affected parties including the petitioners. (order copy marked as letter "C" enclosed).

In the earlier WP, the Hon'ble High Court, Calcutta had observed that there are two-fold grievances of the writ petitioner:-

- 1) One is to provide the market price of the lands in question on the basis of present classification.**
- 2) The other is to identify the boundary line.**

With regard to the petitioner's grievance in respect of the point no. 1 over adequate compensation as per market price, the Hon'ble High Court observed and held categorically that **"the petitioner was at liberty to take recourse to Section 3G(5) of the National Highways Act, 1956. The said grievance of the petitioner cannot be dealt with by the Writ Court."**

This office had complied with the order dtd. 23.09.2021 of the earlier WP with observation that the writ petitioner was advised to approach the **Arbitrator, Divisional Commissioner, Burdwan Division, Chinsurah as per the section 3G(5) of NH Act 1956 for enhancement of land compensation.**

Pursuant to the solemn order in WP no. 20734(w) of 2019 filed earlier, the LA team along with the N.H officials visited the subject site **on 16.11.2021** and started checking **in front of Mr. Sisir Ghosh for the writ petitioner.** During inspection, Mr. Ghosh for the writ petitioner stated that **he relied upon the site plan annexed to the sale deeds.** The presence on the spot was marked and the signatures of all the interested parties were obtained on a separate sheet.

It is claimed by the N.H (R.B.) that **the existing road be identified on the basis of the L.A case initiated under the instant LA case no-04.2016-17 and the previous L.A. case 03/1990-91,** being the analogous project. Some portions plots of land were acquired in LA no. 03/1990-91 while the remaining areas of the same have been acquired in the LA Case 04/2016-17.

Before we dwell on the specific contention with regard to the finding out the location of the boundary line, the site plan of the writ petitioner, mouza-map, project plan under the present LA case i.e 4/2016-17 and the previous LA case no-03/1990-91 are taken up together and considered.

During inspection, the following points emerged:-

It was claimed by the NH that the existing road to its original condition be restored at first as per the LA case no-03/1990-91 and then the LA Case 04/2016-17.

It is necessary to mention that **the aforesaid project is involved with LA Case No. 03/19990-91 and 04/2016-17.**

It was observed that there are boundary walls on three sides. It is specified that the boundary wall attached to the existing road is prone to encroachment bounded by the Ekdant.

It was confirmed that the existing boundary line attached to the road is within the purview of the land acquired under LA case no-03/1990-91. In this respect, the demarcation was properly shown to the writ petitioner.

It may be added that the plot no-651 measuring an area of 05 decimals of land has been acquired in LA case no-04/2016-17 while 32 decimals were acquired under LA case no-03/1990-91.

On the other hand, 12 decimals of the plot no-648 are acquired in LA case no-04/2016-17, while 18 decimals acquired in LA case -03/1990-91.

It was investigated that there is an encroachment of 10 feet(approx.) by the present boundary wall on the plot no-651 in LA case no-03/1990-91 while there is an encroachment of 20 feet (approx.) on the plot 648 erected by the Ekdant. There are also other two boundary lines adjacent to the adjoining plot which are found to be correct.

As regards to the plot no-649 and 649/1155, the plot no-649 measuring 27 decimals has been acquired in LA case no-04/2016-17 while 12 decimals of the same was acquired in LA case no-03/1990-91. As for the plot no-649/1155 measuring 19 decimals was acquired in the instant LA case no-04/2016-17.

The demarcation proceeding was made in presence of the petitioner and the demarcation so framed was marked and shown properly in presence of all the stakeholders and the writ petitioner was satisfied with the demarcation.

There is an averment outlined in the last portion of para-12 that no notices were issued before the demolition of the boundary wall. The statement is false. In this connection, the office denies it strongly.

In this connection, the office submits that the R.B. [Exe. Engg. PIU, R-O-B, West Zone-II, PWD (Roads) Directorate] had issued notice to Sri D.N Mukherjee, Directorate Ekdant Investment Advisory Private Limited, 58 Eliot Roads, Kolkata-7000016 vide his memo no. 401 dtd. 23.02.2021 requesting the writ petitioner to vacate Government land within 7 days from the date 23.11.2021 and also e-mailed. (copy marked as letter “D” enclosed).

In respect of the allegation over non-issuance of payment notice, this office had issued payment notice vide this office memo no.914/LA dtd. 02.01.2021 and the writ petitioner received the notice on 24.12.2021 but the writ petitioner did not take the payment.

In view of the forgoing discussion, the writ petitioners allegation cannot stand and cannot be sustained in the eye of the law.

Submitted by,

**Special Land Acquisition Officer, Birbhum
&
As competent authority of Land Acquisition.
For National Highways Entrusted to State PWD, WB.
Suri, Birbhum**

**Statement of facts in respect of WP no 7258 (W) of 2022 in the matter of
Ekdant Investment Advisory Private Limited –vs- The State of WB & Ors**

Para wise statement in respect of W.P no 7258 (W) of 2022 in the matter of Ekdant Investment Advisory Private Limited –vs- The State of WB & Ors is as follows -----

Para 1: No comments.

Para 2: The petitioner is to prove.

Para 3: There is an averment outlined in this para of the writ petition that he got the conversation certificate in respect of the plot no-648 & 651 wherein the classification Baid has been converted in the name and style of “**Ekdant Investment Advisory Private Limited**” and he seeks the fair compensation on the basis of the classification.

At the very outset it is necessary to mention the WP being **no-20734(w)** of ventilating the same grievances as mentioned in the present WP and alleged that the market price of the land has not been assessed on the basis of the present classification and to identify the boundary wall.

On 23.09.2021, the Hon’ble High Court, Calcutta had passed an order directing to consider and dispose of the representation after giving opportunity of hearing to all the affected parties including the petitioners. *(order copy marked as letter “A” enclosed).*

In the earlier WP, the Hon’ble High Court, Calcutta had observed that there are two-fold grievances of the writ petitioner:-

- i) One is to provide the market price of the lands in question on the basis of present classification.
- ii) The other is to identify the boundary line.

With regard to the petitioner’s grievance in respect of the point no. 1 over adequate compensation as per market price, the Hon’ble High Court observed and held categorically that “the petitioner was at liberty to take recourse to **Section 3G(5) of the National Highways Act,1956**. The said grievance of the petitioner cannot be dealt with by the Writ Court.” This office had complied with the order dtd. 23.09.2021 of the earlier WP with observation that the writ petitioner was advised to approach the **Arbitrator, Divisional Commissioner, Burdwan Division, Chinsurah as per the section 3G(5) of NH Act 1956 for enhancement of land compensation.** *(compliance order copy marked as letter “B” enclosed)*

Para 4: No comments.

Para 5: Admitted.

Para 6: The petitioner is to prove.

Para 7: Admitted.

Para 8: The plot no. 649/1155 of Mouza Abdarpur was not acquired under the LA case 4/2016-17. The writ petitioner did not come to take the award compensation in respect of the plots no. 651, 649, 647, 648 determined by the LA Collector, Birbhum despite notices served upon him. The plot no. 649/1155 has been acquired under extended LA Case No-01/2017-18 the writ petitioner is open to take the compensation in respect of Land and Structure lying on the plot no-659/1155.

Para 9: Before filing this instant writ petition, the writ petitioner had made a series of representations for paying fair compensation as per market price and demarcation of the suit plots. Each representation was taken into account carefully and considered. The office had made **joint survey for demarcation of boundary line on three occasions dtd. 21.02.2019, 25.06.2019 & 31.07.2019 in presence of Sishir Kumar Ghosh for “Ekdant Investment Advisory Private Limited”. (copy marked as letter “C” enclosed).**

In respect of demarcation of suit plots, the LA officials along with NH officials went to the plots in question on 21.02.2019, 25.06.2019 and 31.07.2019 in connection with enquiry including surveying of the affected plots. The first demarcation work in respect of the plot no. 651, 649, and 647 of Mouza- Abdarpur J.L No. 97 was conducted on 21.02.2019 in presence of the writ petitioner and all the interested/affected persons. The way the demarcation was made did not satisfy the writ petitioner. After that, another date for demarcation work was fixed on 25.06.2019 to resolve the problem raised by the writ petitioner. During the demarcation work, the writ petitioner had been making loud clamor. Under any condition, the writ petitioner was not consistent with the demarcation work. But the office completed the demarcation work for the remaining plots.

Again, further demarcation work was made on 31.07.2019 after serving the proper notice upon the writ petitioner and the interested or affected persons. All concerned were present. The writ petitioner got satisfied with the demarcation work in respect of plot no. 651.

Despite fixing boundary line, the **writ petitioner has been raising boundary disputes** and the writ petitioner has alleged that the said demarcation was carried out was not in according with the site plan.

The question pressed before the survey team is **as to whether the boundary wall is without the purview of existing road or not.** The enquiry report with **signatures of Sishir Kumar Ghosh**, NH Officials and LA Officials is enclosed for kind perusal. In case of the plot no. 651 the writ petitioner was satisfied with the way the demarcation was done on 31.07.2019. *(copy marked as letter “D” enclosed).*

In respect of the other plots, **the demarcation could not be convinced for utter non-co-operation of the writ petitioner. The petitioner did not want to understand in any way. This office tried its best to convince the writ petitioner.** The way the demarcation was made did not satisfy the writ petitioner.

After that, another date for demarcation work was fixed on 25.06.2019 to resolve the problem raised by the writ petitioner. During the demarcation work, the writ petitioner had been making loud clamor. Under any condition, the writ petitioner was not consistent with the demarcation work. But the office completed the demarcation work for the remaining plots. **Being dissatisfied with the demarcation, the writ petitioner sometimes left the spot in the middle of the survey, being angry.**

Pursuant to the solemn order dtd. 23.09.2021 in WP no. 20734(w) of 2019 filed earlier, the LA team along with the N.H officials visited the subject site **on 16.11.2021** and started checking **in front of Mr. Sisir Ghosh for the writ petitioner.** During inspection, Mr. Ghosh for the writ petitioner stated that **he relied upon the site plan annexed to the sale deeds.** The presence on the spot was marked and the signatures of all the interested parties were obtained on a separate sheet. *(copy marked as letter "E" enclosed).*

It is claimed by the N.H (R.B.) that **the existing road be identified on the basis of the L.A case initiated under the instant LA case no-04.2016-17 and the previous L.A. case 03/1990-91,** being the analogous project. Some portions plots of land were acquired in LA no. 03/1990-91 while the remaining areas of the same have been acquired in the LA Case 04/2016-17.

Being dissatisfied with the demarcation work, the writ petitioner left the spot after hot conversation in the middle of the survey.

Para 10: It is to be mentioned that the writ petitioner had earlier filed writ **petition being no-20734(w) of 2019** before Hon'ble High Court, Calcutta and **the order was passed on 23.09.2021 directing to consider and dispose of the representation after giving opportunity of hearing to all the affected parties including the petitioners.**

The Hon'ble High Court, Kolkata in his order dt. 23.09.2021 has observed and held that there are two-fold grievances of the writ petitioner -----

One is to provide the market price of the lands in question on the basis of present classification and the other is to identify the boundary line.

Pursuant to the order in respect of the second grievance, the LA team along with the N.H officials visited the subject site **on 16.11.2021** and started checking **in front of Mr. Sisir Ghosh for the writ petitioner.** During inspection, Mr. Ghosh for the writ petitioner stated that he relied upon the site plan attached with sale deeds. The presence on the spot was marked and the signatures of all the interested parties were obtained on a separate sheet.

It is claimed by the N.H that the existing road be identified on the basis of the L.A case initiated under the instant LA case no-04.2016-17 and the previous case 03/1990-91.

Before we dwell on the specific contention with regard to the finding out the location of the boundary line, the site plan of the writ petitioner, mouza-map,

project plan under the present LA case i.e **04/2016-17** and the previous LA case no-**03/1990-91** are taken up together and considered.

During inspection, the following points emerged:-

It was claimed by the NH that the existing road to its original condition be restored at first as per the LA case no-03/1990-91.

It was observed that there are boundary walls on three sides. It is specified that the boundary wall attached to the existing road is prone to encroachment bounded by the EKDANT.

It was confirmed that the existing boundary line attached to the road is within the purview of the land acquired under LA case no-03/1990-91. In this respect, the demarcation was properly shown to the writ petitioner.

It may be added that the plot no-651 measuring an area of 05 decimals of land has been acquired in LA case no-04/2016-17 while 32 decimals were acquired under LA case no-03/1990-91.

On the other hand, 12 decimals of the plot no-648 are acquired in LA case no-04/2016-17, while 18 decimals acquired in LA case -03/1990-91.

It was investigated that there is an encroachment of 10 feet(approx.) by the present boundary wall on the plot no-651 in LA case no-03/1990-91 while there is an encroachment of 20 feet (approx.) on the plot 648 erected by the EKDANT. There are also other two boundary lines adjacent to the adjoining plot which are found to be correct.

As regards to the plot no-649 and 649/1155, the plot no-649 measuring 27 decimals has been acquired in LA case no-04/2016-17 while 12 decimals of the same was acquired in LA case no-03/1990-91. As for the plot no-649/1155 measuring 19 decimals was acquired in the instant LA case no-04/2016-17.

In respect of the allegation over non-issuance of payment notice, this office had issued payment notice vide this office memo no.914/LA dtd. 02.01.2021 and the writ petitioner received the notice on 24.12.2021 but the writ petitioner did not take the payment. *(copy marked as letter "F" enclosed).*

The demarcation proceeding was made in presence of the petitioner and the demarcation so framed was marked and shown properly in presence of all the stakeholders. In the compliance report, the demarcation line was shown properly by pegging stones and that has been categorically described. On the basis of the compliance report, the RB has cleared their acquired area for the project which are in full swing.

The petitioners motive is to harass the office and to hamper the ongoing public project.

Para 11: No comments.

Para 12: Same as Para-10.

There is an averment outlined in **the last portion of this para** that **no notices were issued before the demolition of the boundary wall**. The statement is false. In this connection, the office denies it strongly.

In this connection, the office submits that the R.B. [Exe. Engg. PIU, R-O-B, West Zone-II, PWD (Roads) Directorate] had issued notice to Sri D.N Mukherjee, Directorate Ekdant Investment Advisory Private Limited, 58 Eliot Roads, Kolkata-7000016 vide his memo no. 401 dtd. 23.02.2021 requesting the writ petitioner to vacate Government land within 7 days from the date 23.11.2021 and also e-mailed. (*copy marked as letter "G" enclosed*).

Para 13: Same as 10.

Para 14: No comments.

Para 15: No comments.

Para 16: Same as 10.

Para 17: No comments.

Submitted by,

**Special Land Acquisition Officer, Birbhum
&
As competent authority of Land Acquisition.
For National Highways Entrusted to State PWD, WB.
Suri, Birbhum**