
(1979) 04 CAL CK 0007
In the Calcutta High Court
Case No : C.R. No. 751 (W) of 1978

Rashbehari Jana and Others

APPELLANT

Vs

Addl. District Magistrate, Midnapore and Others

RESPONDENT

Date of Decision : 03-04-1979

Acts Referred:

West Bengal Land (Requisition and Acquisition) Act, 1948 — Section 2(a), 3, 3(1), 3(1A), 3(2)

West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977 — Section 1(4)

Citation : 83 CWN 608

Hon'ble Judges : M.N. Roy, J

Bench : Single Bench

Advocate : Saradindu Samanta and Alpana Chakraborty, for the Appellant; Arun Prokash Chatterjee and Tarun Kumar Ghosh for Respondent Nos. 2 and 3 and Bankim Chandra Dutta and D.K. Chowdhury for added Respondent No. 1, for the Respondent

Judgement

M.N. Roy, J.—The Rule was obtained on 10th February 1978, impeaching several notices in Annexure "A", issued for requisitioning various plot of lands in Mouza Gangyachar, J.L. No. 253, P.S. Nandigram, in terms of the provisions of West Bengal Land (Requisition & Acquisition) Act, 1948 (hereinafter referred to as the said Act), for the purpose of setting up dumping ground for developing the shipping channel from Haldia to sea, and as the same, in the opinion of the Requisitioning Authority under the said Act, was thought to be necessary for the purpose of maintaining supplies and services essential to the life of the community or for providing proper facilities for transport/irrigation/drainage. At the time of the issue of the Rule, no interim order was issued. But an application for necessary order of injunction was filed on 4th May 1978. The Land Acquisition Collector, Midnapore, Respondent No. 2, on 7th December 1978, also filed an application for vacating the interim order. It should be noted that on 29th June 1978, after hearing the learned Advocates appearing at the relevant time, an order was made for maintaining the status quo in respect of possession as on

that date, and further directions were given that nobody should enter the lands. These two applications ultimately came up for hearing on 30th January, 1979, when after hearing the learned advocates and considering the urgency of the matter an early hearing of the Rule was directed. At the time of making the said order, the learned Advocates appearing for the parties agreed that the application for vacating the interim order, as filed by the Respondents other than Respondent No. 5, would be used as opposition to the main Rule and correspondingly, the opposition as filed by the petitioners, should be considered as their reply. Since the requisition in question has been made for or at the instance of Calcutta Port Trust, Mr. D.K. Chowdhury, appearing for them, also prayed for leave to make an application for addition of party. The leave, as asked for, was granted and pursuant thereto, on an application dated 31st January 1979 being filed, an order was made on 13th February 1979, allowing the Board of Trustees for the Port of Calcutta, to be added as Respondents in the Rule. These added Respondents also filed an application for vacating the interim order of injunction and the said application, on the prayers of the learned Advocate for the added Respondents, was directed to be treated as their opposition in the Rule and the petitioners were given time to file their reply, if any, within a week. Even inspite of the above admitted facts, an affidavit in opposition was filed by the State Respondents and consequently on the prayers of the learned Advocate for the petitioner, they were given liberty to file their reply on or by the next date of hearing, which was fixed on 23rd March, 1979.

2. The petition is a composite one, brought at the instance of many petitioners, in respect of various notices issued for requisitioning shear lands under the said Act. The petitioners have disclosed the relevant particulars of their holdings and interests in respect of them. All the notices as annexed to the petition excepting one, relate to case No. (R & A) 55 of 1976-77 under the said Act and the other notice is in respect of case No. (R & A) 5 of 1976-77 under the said Act and is addressed to Maheswar Jana, petitioner No. 8. Although the notices as impeached relate to two cases under the said Act, the challenges thrown against them are the same.

3. The Trustees of the Calcutta Port Trust, have been dredging the inner estuary since November 1973 in order to obtain a draught of 35 feet for shipping in the channel leading to Haldia Dock system, but could not get the desired result of obtaining the necessary draught in the said channel due to redistribution of the dumped materials inside the estuary. On further study and consideration of the circumstances by their Hydraulic Study Department, the said Trustees, devised a fresh scheme for dredging the concerned channel continuously throughout the day and night and then to directly pump the dredged materials to the disposal area adjacent to the river banks. For giving effect to such scheme, the said Trustees felt the requirement of large tract of land (about 590 acres), in mouza Gangarchar, J.L. No. 253, P.S. Nandigram, District Midnapore. As it was felt by the said Trustees that the work of development of the channel from the sea to Haldia would better serve the purpose of communication, which again is essential

for the life of the community, they by their letter dated 20th May 1976 addressed to the Collector of Midnapore, requested to invoke the provisions of the said Act, for requisitioning the lands as mentioned above and as more fully described and demarcated or shown in a sketch plan, and for handing over possession of them to the said Trustees at an early date. It was contended further that such setting up of a dumping ground in the river courses would also be covered by the provisions of the said Act and the intention or purpose as incorporated or meant or underlying therein.

4. In the background as above, the impugned notices in Annexure "A" to the petition of motion, were issued on 5th April 1977. These notices were issued u/s 3(1) of the said Act. Section 3 of the said Act deals with the power of requisition and is to the following effect :--

Section--3(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 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 area excluded by the State Government by a notification in this behalf, by the construction or reconstruction of dwelling places for people residing in such areas, the State Government may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning :

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 authorised 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 authorised 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.

5. The purposes of the requisition have already been mentioned. These, notices

appear to have been signed and issued by Shri A. Pattanaik, Additional District Magistrate, Midnapore, on 2nd April 1977, claiming to be the person authorised u/s 3(1A) of the said Act. It further appears from the notices that the State Government, by notification No. 20500 L.A. dated 3rd December 1963 and as published at page 2578 of the issues of the Calcutta Gazette dated 26th December 1963, authorised the said Shri Pattanaik, as person authorised for exercise of powers u/s 3(1A) of the said Act. These notices also appear to be signed by Shri A.K. Ghose, Land Acquisition Collector on 2nd April 1977 and furthermore those notices were forwarded to the owner occupier of the lands by the Collector under the said Act. It should be remembered that the Collector u/s 2(a) means, in Calcutta, the First Land Acquisition Collector, Calcutta, and elsewhere, the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the State Government to perform the functions of a Collector under the said Act, and the term "person authorised" as used in the notices, has reference to section 3(1A), the terms whereof have already been quoted hereinbefore. The copies of these notices, as appear from the endorsements at the bottom, appear to have been served on the owner or occupiers of the lands by the Collector under the said Act.

6. Mr. Samanta, appearing for the petitioner, on a reference to the statements made in paragraph 16 of the petition, wherein the petitioners have given the particulars of Sarbashree Kunja Behari Jana, Sashi Bhusan Jana, Barin Jana, Lal Mohan Pramanik, Gopal Chandra Paramanik, Krishna Prosad Pramanik, Kartick Chandra Shee, Manmathanath Hazra and Panchanan Giri as dead, firstly contended that since notices under the Act were issued in their names, i.e. in the names of the dead persons and not on their successors in interest, or in their names, there was not only no application of mind, but the lands belonging to them could not be requisitioned under the said Act, as under the same, no land could be requisitioned or acquired without proper and due service of notice on the owner or the occupiers. It was secondly contended by him that the printed notices as in Annexure "A", being filled up in ink and purported to be signed by the Additional District Magistrate concerned and so also by the Land Acquisition Collector, are not legal, proper and valid for requisitioning the lands as involved, inasmuch as it is not apparent from the notices in question, as to which of the officers as mentioned therein requisitioned the lands in question and for that reason alone, he stated that the intended requisition cannot be allowed to proceed or possession of the lands could be taken on the basis thereof. It was thirdly submitted that the notices as impeached, being under the lithographic signature of the makers, they and the services thereof, were not in compliance with Rule 4 of the Rules as framed under the said Act, which is to the following effect :--

4. Form and manner of service of notice--

(a) The orders under sub-section (1) of section 6 shall respectively be, as nearly as possible, in Forms 1 and 5 appended to these rules and the notices referred to

in sub-section (1) and (3) of section 5 and sub-section (3) of section 6 shall respectively be, as nearly as possible, in Forms 3, 4 and 6 appended, to these rules ;

(b) The notice referred to in sub-section (1a) of section 4 shall be, as nearly as possible--

(i) in cases where it is considered necessary to apply the provisions of section 5A, in Form 2A appended to these rules ; and

(ii) in other cases, in Form 2 appended to these rules,

the more so when the provisions of the statute and the Rules require that such notices should contain the actual signature of the Requisitioning Officer and should be served upon persons, who are the actual owners and in occupation of the lands in question. Mr. Samanta fourthly contended that the concerned notices having admittedly been signed or issued on 2nd April 1977, they cannot be given effect to or acted upon as on that date, the said Act was not in force and the same was reenacted with effect from 22nd July 1977 and for such patent defects, the concerned notice should also be deemed to be void, illegal, irregular and bad. He fifthly contended that the notification in question authorising the Additional District Magistrate concerned, was not sufficient for the requisition of the lands in question, even on the reenactment of the said Act with effect from 22nd July 1977. It was sixthly contended by Mr. Samanta that the notices in Annexure "A" being vague and insufficient, no steps could be taken on their basis and lastly and seventhly, Mr. Samanta contended that the lands sought to be requisitioned being situate at a distant place or places far away from the channel, the entire action was mala fide and sought to be initiated in colourable use and exercise of power. To establish this, Mr. Samanta referred to the sketch map in Annexure "E" to the petition of motion.

Before referring to the submissions as made by Mr. Samanta, in support of his contentions as mentioned above, I think I should indicate the defence of the Respondents.

7. The Respondents representing the State authorities, after referring to the background of the requisition as indicated hereinbefore, have contended that the requisition orders as issued by the Additional District Magistrate, Midnapore, were served upon all the recorded owners as per Revisional Settlement records. They have also stated that thereafter, possession of the requisitioned lands was taken from the owners concerned on 15th December 1976 and such possession was simultaneously delivered to the Calcutta Port Trust, in terms of the certificate of possession, as in annexure "F" of their pleadings dated 6th December 1978. The facts as mentioned above relate to the plots excluding those vested in the State and comprised in Block 1 of the concerned scheme. So far as the other set of notice of requisition dated 2nd April 1977, issued by the Additional District Magistrate, Midnapore, it has been stated that the notices in question were also served on the owner as per the Revisional Records and possession was taken on

11th April 1977. It has been alleged that simultaneous possession of these concerned lands was also delivered to the Calcutta Port Trust, through the certificate of possession in Annexure "G" to the pleadings.

8. These Respondents have contended that since the instant Rule was moved and obtained on 10th February 1978 i.e. long after the taking over of possession and when admittedly such possession was simultaneously delivered to the said Calcutta Port Trust, the same would not be maintainable. It is also the contentions of these Respondents that by Memo No. 6816(35)--L.A. (P. W.) dated 8th June 1977, it was informed to all concerned that the effect and operation of the said Act has been extended for two years from 1st April 1977. They have further stated that the lands in question were acquired for a public purpose and such act was also one of a National interest. That apart, it has been stated that huge amount of money has already been spent for the concerned development project and in L.A. case No. 5 of 1976-77 and bulk of the payment has been made and duly received by the persons, who claim to be affected. These Respondents, by their supplementary affidavit dated 9th March 1979, have stated further that on 9th November 1976, Shri Birendra Chandra Mitra, dealing Kanungo of Special Land Acquisition Office (Haldia Dock Project), submitted his preliminary enquiry report in Case No. 5 of 1976-77 as mentioned above, before the Land Acquisition Collector and the said Collector duly recommended the same by putting his signature on the same day and thereafter, the report in question was duly put up before the Additional District Magistrate (L.R.), Midnapore, for final approval and the necessary approval to proceed in the matter was given on 8th December 1978 by subscribing the signature duly. Similarly, it has been stated that the preliminary enquiry report of the officer as mentioned above in Case No. 55 of 1976-77 as mentioned above, was submitted before the Land Acquisition Collector on 1st April 1977 and he duly gave his recommendations by putting his signature on the report on that day and thereafter, the said report was placed before the Additional District Magistrate concerned, for his approval on that very day and the necessary approval to proceed in the matter was granted on 2nd April 1977. The reports as mentioned above and as disclosed with the affidavit under consideration, have mentioned the schemes to be for benafide public purpose and as such requisition and acquisition proceedings have been recommended. The deponent of this affidavit has also given necessary explanations for the inability of the Respondent State and its official, to produce the records in their entirety.

9. The Trustees for the Port of Calcutta have also mentioned the background and the necessity for the requisition and acquisition of the lands in question and about their requirements for the effective completion of the relevant Scheme. They have also mentioned about their request to the Collector, Midnapore, for initiating the proceedings under the said Act. It is their case that after due and necessary compliance with the requirements under the said Act, possession of lands in question have been delivered to them after due demarcation and pegging. It is their case that after obtaining such possession, they have also

taken steps to preserve and maintain their possession by raising some structures and also by encircling the dumping ground area by constructing dykes (Bundh). It is their case that discharging of water, which was accumulated in the area, was undertaken and continued by them till 16th October 1978 and thereafter, they had to discontinue such functioning as the Additional District Magistrate, Midnapore, by his letter dated 22nd December 1978, informed them about this Rule and the interim order as made. These Respondents have also given the particulars of spoil dredged and deposited by M.O.T. Dredger on the lands in question and within the Dyke and have contended that thus the character of the lands has also been changed. It is also stated by these Respondents that none of the petitioners stay or reside in the lands in question. It is also their case that the project is worth about 61 crores of rupees and out of that 57 crores of rupees have already been spent by them. It is also their case that majority of the petitioners have accepted 80% of compensation on account.

10. The petitioners in their several replies, have categorically denied the material averments of the Respondents as mentioned hereinbefore. They have further denied to have received or accepted any compensation or to have given up possession of the lands in question. But one thing is certain that they have not denied that the project is one for public purpose and Mr. Samanta, in his usual fairness, has also accepted the same to be one of National importance. But he has contended that even then, the requirements of the statute, would have to be followed and in the instant case, the necessary provisions of the 3rd Act and the Rules framed thereunder have in fact been flouted.

11. It is true, that some of the notices meant for persons, whose particulars have been mentioned in the petition, were already dead and thus the question would be whether in terms of the said Act or the Rules framed thereunder, whether there was good and effective service and if possession of the concerned lands could be taken or even asked for, more particularly when u/s 3(2) of the said Act, lands are required to be requisitioned or acquired, with proper and due service of notice on the owners or occupiers. Section 3 (2) of the said Act read with Rule 3 contains a scheme regarding the manner and mode of service of orders duly issued u/s 3(1) or 3(1A), of the said Act and as observed in the case of *Kali Prosad Podder vs. Additional District Magistrate, Howrah* and Ors. 1976 (2) C.L.J. 98, the said scheme is entirely different from the scheme under the CPC and the four modes of service as indicated in sub-rules (a), (b), (c) and (d) of Rule 3, are clearly alternative modes of service and the manner of applying the mode of service in a particular case, is to be left to the decision by the authorities concerned. It was contended by Mr. Chatterjee, appearing for some of the Respondents and which argument was also adopted by Mr. Dutt, appearing for the other Respondents, that when the heirs of those dead persons as mentioned in the petition or at least the occupiers of the lands belonging to those dead persons, have accepted the concerned notices and have not raised any objection and furthermore have allowed the proceedings to be continued, the service as made, should be held and observed to be due and proper and as such

in the facts of the case and at least at this stage, no interference should be made. To establish the fact that the notices meant for the concerned dead persons were accepted on tender, and no objection was ever raised, Mr. Chatterjee produced the relevant records and therefrom it appeared that all the notices for those dead persons, excepting the one meant for Barin Jana, were duly accepted without any objection. As mentioned hereinbefore, Mr. Chatterjee also contended that the notices were prepared and issued on the basis of the entries in Revisional Settlement records and the fact that the erstwhile owners were dead, was neither known to the authorities concerned nor such fact was made known to them, by the persons interested including the heirs or legal representatives. In support of his contentions, Mr. Chatterjee relied on the determinations in the case of *Lilavati Bai vs. State of Bombay*, AIR 1957 Bom 521. This was a case under Bombay Land Requisition Act 1948. The petitioner was the widow of the tenant in respect of flat No. 3 on the 1st floor of a building at 68 Marine Drive, Bombay, which was sought to be requisitioned by an order dated 27th January 1954, made u/s 6(4) (a) of the said Bombay Act. The tenant admittedly died in November 1953. The order in question proceeded on the basis that the tenant had ceased to be in occupation of the flat in October 1952, as he had handed over possession of the same. The notice in question was served by positing on the outer door of the flat in question, which at the relevant time, was in the possession of another person, having received possession in the manner as indicated above and who was also alleged to be a lodger or paying guest. The petitioner admitted to have come to know about the order in question at about the time the same was made. In these facts amongst others, it has been observed that the petitioner had timely notice of the impugned order. The circumstances under which the notices in question were issued in the name of dead persons or the explanation as given for such issue, in the case appear to me, to be reasonable. The heirs and legal representatives or the occupiers, who duly received those notices, had due knowledge of the issue of them in the names of persons, who were already dead and as such they, in all fairness or diligence, should have at once raised objections or taken exceptions. But instead of that, they allowed the proceedings to go on or continued and allowed them to be completed in the manner as indicated by the Respondents. As such, I am of the view that at this stage, the point under consideration cannot be allowed to be urged and since the heirs and legal representatives or occupiers, had knowledge of the defects in the notices, if any, and allowed the proceedings to continue, the principles as evolved in the case of *Smt. Lilavati Bai vs State of Bombay* (supra), would apply and as such, the arguments of Mr. Samanta must be negated and the point must be answered in favour of the Respondents.

12. In support of his second and third submissions, Mr. Samanta contended that since the notice were purported to be signed by the Additional District Magistrate and so also by the Land Acquisition Collector, they were neither legal nor valid or proper, as it is not apparent from them, as to on the formation of the opinion of which officer, the requisition was made. He contended that since the notices in

question were also signed by authorities other than the person authorised u/s 3(1A) of the said Act, they were not issued on the satisfaction of due formation of opinion by such authority as in section 3(1A) and thus the opinion should be held to be not formed duly and for that the notices should be set aside and quashed or at least possession of the lands must not be allowed to be taken on that basis. It is true and as mentioned by Mr. Samanta, that the notices in question, have also been signed by the Land Acquisition Collector and forwarded for service under the signature of the Collector under the said Act, apart from being signed by the Additional District Magistrate, being the person authorised u/s 3(1A) of the said Act. The Land Acquisition Collector has signed on the same day i.e. 2nd April 1977, when the notices were signed by the Additional District Magistrate concerned and they were forwarded for service in the manner as indicated on 5th April 1977. This fact of signature and issue of the notices by persons other than the Additional District Magistrate, who was the person authorised under the said Act, according to Mr. Samanta, made the notices, bad, illegal, void and inoperative, and established non-application of mind by the authority as empowered and, only such person as authorised u/s 3(1A), according to Mr. Samanta, had the authority to issue the notice for the exercise of powers u/s 3(1) of the said Act. This part of Mr. Samanta's argument, that only such person as authorised u/s 3 (1A) has the right or authority to have the powers u/s 3 (1) exercised, appears to be substantially correct. Mr. Chatterjee, after placing the notice in question and more particularly the recitals to the effect "and whereas the State Government has, by notification No. 205000 L.A. dated 3.12.63, published at page 2578 of the Calcutta Gazette dated 26.12.63 authorised me to exercise the powers conferred by sub-section (1A) of section 3 of the West Bengal Land (Requisition and Acquisition) Act, 1948" and the manner in which the Additional District Magistrate, Midnapore has executed the same viz., as "person authorised u/s 3(1A) of Act II of 1948", contended that the use of the word "me" as mentioned hereinbefore and in the preamble of the notices must be read and construed as empowering the person authorised under the said Act viz., the Additional District Magistrate concerned, who again has disclosed his identity as the person authorised under the said Act, and as such the notices must be held or deemed to be issued by the Additional District Magistrate, as a person authorised under the said Act and as such, the notices must also be considered to be issued by him as such person authorised. The fact that after the amendment as incorporated in section 3(1A) of the said Act in 1963, by the West Bengal Land (Requisition and Acquisition) (Amendment) Act, 1963 (West Bengal Act XXXII of 1963), the Additional District Magistrate could be a person authorised, cannot be in doubt. Thus, on the basis of the averments in the notice as quoted hereinbefore, read along with the Gazette, as appeared from the records, there is no doubt that the Additional District Magistrate concerned could be and in fact he was duly appointed as a person authorised under the said Act and as submitted by Mr. Chatterjee, the use of the word "me" in the preamble of the notices and the way and the manner in which they have been signed by the Additional District Magistrate concerned, do establish that he was duly authorised

and the notices were issued by him as such authorised person and on his satisfaction. The justification for the signatures of the Land Acquisition Collector, appears from the affidavit filed in this proceedings by Shri Birendra Chandra Mitra. Such signature appears merely to be and for the recommendation of the Land Acquisition Collector concerned, but the ultimate approval was of the Additional District Magistrate viz., the person authorised under the said Act. The other signatures, forwarding the notices, were by the Collector under the said Act and that in my view, should not be treated as part of the notice or for establishing the required application of mind. Thus, the notices in my view cannot be stated or considered to be void as alleged and on the grounds as mentioned.

14. On the other challenge of Mr. Samanta against the notices that they were neither legal, nor valid or bonafide and in form, as they were under the lithographic signature of the makers and they were not in fact or ever duly served, it was also contended that the notices as served, not being in the Form as prescribed under the Rules, were also bad and void and as such also they could not be given effect to or acted upon. These submissions were made on a reference to Form 1 under the Rules, which is meant and required for order of requisitioning lands u/s 3(1) of the said Act. In support of his arguments on lithographic signature and the validity of the same, reference was made by Mr. Samanta to the case of Kamala Bala Dassi vs. State of West Bengal, 65 C.W.N. 869, wherein it has been observed that the word "endorse" means the personal signature of the officer concerned. A copy of the Requisition order which does not bear the signature of the Requisitioning Officer or his duly authorised ministerial officer, but contains a lithographic signature, is not sufficient compliance with the requirements of Rule 3(1) of the West Bengal Land Requisition and Acquisition Rules, 1948 and is, therefore invalid".

The facts of the case, where the above determination was made were that the notice in question was purported to be served by the Land Acquisition Collector, Burdwan, although the order of requisition was made by the Collector of Burdwan and further the notice did not bear any date or any signature of the authority issuing the notice excepting a facsimile signature of the Land Acquisition Collector, Burdwan. So the order of requisition in that case was made by the Collector of Burdwan, but the same was issued, not under his signature, but under the facsimile signature of the Land Acquisition Collector, Burdwan. Mr. Chatterjee, on production of the records, established that the originals of the notices have been signed personally by the Additional District Magistrate viz., the person authorised under the said Act and so also by the Land Acquisition Collector concerned in the circumstances as indicated above. It was further submitted by him that when the notices as served have duly been endorsed by the Collector under the said Act, under his personal signature and not by any lithographic signature, so the arguments of Mr. Samanta in that respect, would be of little or no substance and in fact the determination as cited by him, would help and assist the Respondents. In the case under reference, Rule 3(1) which at

the relevant time was to the following effect :--

Save as otherwise provided in this rule, an order under sub-section (1) of section 3 shall be served by delivering or tendering a copy thereof endorsed by the Collector the persons on whom the order is to be served,

was considered and on the basis of the terms of the Rule, it has been found that the Rule required that the copy of the Requisition order should bear the endorsement of the Collector. The Rule in that case was made absolute as the learned Advocate appearing for the Respondents in that case did not dispute the fact that the copy in question, was not under the personal signature of the Collector and so it was further held that the order as served, was not in compliance with the said Rule 3(1). In terms of section 3(2) of the said Act, an order u/s 3(1) has got to 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). The Forms and manner of service of orders and notices have been mentioned in Rules 3 and 4. The terms of Rule 4 have already been quoted hereinbefore and Rule 3, which deals with the manner of service of order, is to the following effect :--

Rule--3 : Manner of service or orders :--An order under sub-section (1) of section 3 shall be served 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--

(a) by delivering or tendering a copy thereof, endorsed either by the person authorised by the Act to make the order or by the Collector, to the person on whom the order is to be served or his agent, or

(b) by fixing a copy thereof on the outer door of some conspicuous part of the house in which the person on whom the order is to be served ordinarily resides or carries on business or personally works for gain, or

(c) by sending the same to the person on whom the order is to be served by registered post with acknowledgment due, or

(d) by fixing a copy thereof in some conspicuous part of the land to which the order relates and also in some conspicuous place of the office of the Collector.

14. The manner of service of orders in Rule 3, has already been considered in the case of Kali Prosad Poddar vs. Additional District Magistrate, Howrah. (supra). Neither of these Rules speak of or require the service copy of the notices in question to be under the actual personal signature of the authorities concerned. I am of the view that if the originals are signed by the makers, the copies meant for service need not be under their original signatures, but the endorsement for effecting service of such notices, should be under the signature of the authority concerned. In this case, the originals as produced, appeared to be duly signed by the Additional District Magistrate viz., the person authorised under the said Act and by the Land Acquisition Collector, for the circumstances as disclosed and the

notices are under the original endorsement of the Collector under the said Act. That apart, I find that the notices as issued, are in substantial compliance with the requirements of the Rules, more particularly when those notices would appropriately serve the real purposes of the statute. As such, I find that there are no substance in the second and third submissions of Mr. Samanta. I am further of the view that the original order of Requisition should contain the actual signatures of the requisitioning authority and in this case, the originals as produced, have fulfilled such requirements.

15. Since the notices in this case were admittedly issued on 2nd April 1977 and endorsed for service thereafter, Mr. Samanta in support of his fourth branch of submissions, contended that they could not be given effect to, as the said Act was not in force or effective then, but the same was re-enacted with effect from 22nd July 1977. The reenactment by the West Bengal Land (Requisition And Acquisition) Re-enacting Ordinance, 1977, as submitted by Mr. Chatterjee, was effective from 1st April 1977 and reenacted with some modifications in respect of section 1(4), the said Act, which was in force on 31st March, 1977, has extended such provisions upto 31st March 1979. On a reliance to the provisions of savings and validation as in this Ordinance, Mr. Chatterjee contended, that the action as taker was due, bonafide, proper and valid and the more so when possession of the lands in question, was taken earlier. The validity of the reenactment has not been challenged and perhaps the same could not be challenged. Thus, agreeing with the submissions of the Respondents, I find no justification in upholding the contentions of Mr. Samanta. I hold that the said Act should be treated and considered as "an existing law". In view of the above, I also find that there is no substance in the fifth Branch of the submissions of Mr. Samanta viz., that the notification in question, authorising the Additional District Magistrate concerned, was neither proper nor sufficient or legal and valid. I also hold that the notice in Annexure "A" are not vague as alleged by the petitioners and as such, the sixth submissions of Mr. Samanta, on the question of vagueness of notices, should also fail. It is true that in the notices as served on the petitioners, the alternative of the several purposes, such 2s transport, communication etc., have not been struck out and I have come to the conclusion as referred to hereinbefore, by following the determinations in the case of *Amiya Kumar Mukherjee Vs. St. of W.B. and Others*, and particularly when, I find that no-application of mind by the authority concerned, has not been established or proved. The seventh and the last submissions of Mr. Samanta, in my view, cannot be appropriately enquired or gone into or determined in the jurisdiction and as such, the same would also fail.

16. These apart, the petitioners or at least some of them, in my view, should not be allowed to agitate the points as raised in this proceedings, because of their conduct and furthermore when they have allowed this admitted project of National importance to continue or to be operative for sometime and on that basis, a large sum of money has already been spent.

17. It should also be noted that on the production of the Rules, as it is effective

to-day by Mr. Chatterjee, Mr. Samanta further argued on reference to Rules 3 and 4, that service of not only an order but also of a notice as mentioned in those Rules, would be mandatory and for admitted by non-service of both the records as mentioned in those Rules, the Requisition in question, would be incompetent. This is a point which requires determination on facts and as such specific pleadings was required. Unfortunately there is no such appropriate pleading. Be that as it may be in view of my findings as above, specially on the conduct of the petitioners this point as sought to be argued now loses all its weight and efficacy.

18. So after hearing the learned Advocates, I find no merit in the application and as such, the same fails, so also the Rule and the same is discharged. There will however be no order for costs. It should be noted that apart from the submissions as mentioned above, no further arguments were advanced and in particular the said. Act was not contended to be ultravires.

The prayer for stay of operation of the order is refused.