

17.12.2020
p.b.
Court No.38
Sl. No.6.

W.P.A. 23747 of 2019

Samir Roy & Anr.
Vs.
Union of India & Ors.

Mr. Tarun Das Sarma,
Ms. Piyali Mukherjee.
.....for the petitioners.
Ms. Papiya Chattopadhyay.
.....for the respondent nos.6 & 8.
Ms. Manika Roy.
.....For the respondent no.5.
Mr. Chandi Charan De,
Ms. Chandana Ghosh.
.....for the State.

Leave is granted to the petitioner to correct the cause title of the writ petition, particularly, the description of the respondent no.3.

The subject matter of challenge in this writ petition is the order dated October 18, 2019 issued by the respondent no.3 being the competent authority, Nadia, under the National Highways Act, 1956. By the said order, the respondent no.3 has directed the petitioners to refund a portion of the compensation money paid to them on the ground that the private respondents as the co-owners of the acquired property, are also entitled to receive compensation.

Learned advocate appearing for the petitioners strenuously contended that the private respondents are

the sisters of the petitioners, but they never had any interest in the acquired property and as such they are not entitled to receive any compensation on account of acquired property under the National Highways Act, 1956.

Considering the facts of the case, it appears that the rival claims of the petitioners and the private respondents with regard to the acquired property in question can only be adjudicated by a competent civil court. Until the decision of the competent civil court with regard to the rival claims of the petitioners and the private respondents in respect of the acquired property, the respondent, National Highway Authorities cannot direct the petitioners to refund any portion of the compensation amount already received by them.

As prayed for by the learned advocate appearing for the petitioners, liberty is given to the petitioners to file suit before the competent civil court for adjudication of the claim made by the private respondents with regard to the title of the acquired property in question within January 31, 2021. If the above suit is filed by the petitioners, the respondent nos.2 to 5 shall not take any step for recovery of the compensation amount already paid to the petitioners until the decision of the civil court in the suit.

With the above direction, the application being W.P.A. 23747 of 2019 is disposed of.

Since no affidavit in opposition has been called for and the writ petition is disposed of without any affidavit, allegations made in the writ petition shall be deemed to have been denied by the respondents.

Urgent certified website copy of this order, if applied for, shall be given to the parties as expeditiously as possible upon compliance of all formalities.

(Ashis Kumar Chakraborty, J.)