

04
26.02.2020
Court No.2
DC

CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
APPELLATE SIDE

WPA 295 of 2020

Subhash Pandit.
Vs.
The State of West Bengal & Ors.

Mr. Jagriti Mishra
.....for petitioner

Ms. Supriya Singh for respondent No. 4

Mr. Bikramaditya Ghosh
Mr. Momenur Rahman.....for the State

The petitioner is aggrieved by the order dated 22nd November, 2019 passed by the Special Land Acquisition Officer, Cooch Behar being the Competent Authority under the provision of the National Highways Act, 1956 whereby the claim of the petitioner for grant of compensation in his favour has been rejected on the ground that he did not have necessary documents in support of his claim.

The petitioner submits that the record of rights in respect of the land which was acquired stands in the name of his predecessor in interest (great grandfather). The petitioner further submits that he is entitled to the entire compensation in respect of the land.

It has been submitted that he is the only legal heir of the person in whose favour the record of right stands. He also submits that the compensation has been paid in respect of the persons who are not at all entitled to receive the same in terms of the said Act.

Section 3H(4) of the National Highways Act, 1956 mentions that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

The petitioner prays for a direction upon the respondent authorities for referring the issue to the civil court for adjudication.

Learned Advocate appearing on behalf of the State-respondents submit that the compensation has already been disbursed in favour of the persons who have been able to substantiate their claims before the competent authority. The petitioner has failed to produce any document in support of his claim. It has been submitted that the land was acquired for a national project and the progress of the said project ought not to be stalled in view of the claim raised by the petitioner.

Upon hearing the submissions made by the respective parties, it appears that the petitioner is aggrieved by the action taken by the competent authority to pay compensation in favour of persons, according to him, who are not entitled to receive the same. The petitioner has been able to raise a dispute with regard to the title of the property. The same can only be decided by the competent Civil Court and not by the competent authority under the National Highways Act.

Accordingly, I feel it expedient to dispose of the writ petition by directing the respondent No. 3 being the Special Land Acquisition Officer and the Competent Authority (Land Acquisition) under the National Highways Act to refer the dispute raised by the petitioner before the Principal Civil Court of original jurisdiction for taking a decision with regard to the title of the land in dispute. The payment of compensation shall be consequential to the order passed by the learned Civil Court declaring the title of the land in question.

The writ petition stands disposed of.

Urgent certified Photostat copy of this order, if applied for, be supplied to the parties upon observance of requisite formalities.

(Amrita Sinha, J.)