15.07.2021
rc/ct.no.10
Item No.07

WPA No. 133 of 2020
Asad Ali & Ors.
Versus
Union of India & Ors.

(VIA VIDEO CONFERENCE)

Mrs. Saloni Bhattacharjee …for the petitioner

Mr. Chandi Charan De
Mr. Hirak Barman
Md. Rahaman …for the State

Mrs. Tapasi Sinha Palit ….for the UOI

Mrs. Monika Roy …for the NHAI

The petitioner challenges the acquisition process initiated under the National Highways Act, 1956.

The National Highway Authority of India (in short, "NHAI") is represented and submits that the entire acquisition money has been deposited with the State.

Mr. Chandi Charan De, Advocate appearing on behalf of the State, submits that the petitioner has received the entire compensation and had participated in the acquisition proceeding. He also submits that the petitioner has an alternative efficacious remedy under Section 3G of the National Highways Act, 1956.

The petitioner relies on a Gazette Notification dated August 28, 2015 to contend that in respect of the acquisition of the subject premises of the petitioner, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in

short, "RFCTLARR Act") is applicable. The petitioner also contends that since the National Highways Act has not been amended the proceeding initiated by the respondent authorities are vitiated.

Mrs. Monika Roy, Advocate appearing on behalf of the NHAI relies on an unreported judgment in MAT No. 1129 of 2017 (National Highway Authority of India Vs. Abhimunya Mondal) to contend that through the proceeding has been initiated under the National Highway Act prior to the RFCTLARR Act came into force there an be no question of applicability of the RFCTLARR Act.

I have heard the parties. I am of the view that in view of the clear embargo contained in Section 3G of the National Highway Act, 1956 the present writ petition is not maintainable. Moreover the petitioner has an alternative efficacious statutory remedy to challenge the proceedings initiated by the respondent authorities.

Hence, in view of the alternative efficacious remedy available to the petitioner, I am not inclined to entertain this writ petition.

WPA No. 133 of 2020 stands dismissed.

There will be, however, no order as to costs.

However, the petitioner is granted liberty to avail the alternative efficacious remedy, if so advised.

(Ravi Krishan Kapur,J)