

11.01.2021

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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA 2413 of 2020
(Via Video Conference)**

**Purna Ch. Biswas & Ors.
-Vs-
Union of India & Ors.**

Mr. Arindam Das,
Mr. Biswajit Sarkar,

... for the petitioners

Mr. Chandi Charan De,
Ms. Bhandana Ghosh,

... for the State

Ms. Manika Roy,

... for the NHAI

The grievance of the petitioners in this writ petition is that their claims for higher quantum of compensation under Section 3G(5) of the National Highways Act, 1956 (in short, 'the Act of 1956') have not yet been decided by the Arbitrator, being the respondent no. 6 herein (the District Magistrate, Nadia).

The fact of acquisition of the plots of land of the petitioners under the Act of 1956 and user of the same land for the purpose of widening the National Highway-34 is not in dispute. The petitioners did not accept the amount of compensation ascertained by the competent authority under Section 3G(1) of the Act of 1956. At the instance of the petitioners, their claim for higher amount of compensation was referred to arbitration under Section 3G(5) of the Act of 1956 as per Section

3G(5) of the Act of 1956. The arbitration proceeding before the Arbitrator, being the District Magistrate, Nadia was governed by the provisions of the Arbitration and Conciliation Act, 1996 (in short, 'the Act of 1996').

The petitioners allege that the Arbitrator has only fixed the rate of compensation in respect of different categories of land acquired by the National Highways Authority. It is the specific case of the petitioners that the Arbitrator has not made or published any award as provided under the Act of 1996 declaring the amount of compensation receivable by them.

Mr. De, learned advocate for the State respondents produced certain documents, wherefrom it appears that the respondent no. 6, as the Arbitrator had held the arbitral sittings on various dates in the year 2015, which were attended by the petitioners and other persons who also claimed higher amount of compensation in respect of their respective plots of land. The documents produced by Mr. De are kept on record.

At this juncture, it is to be noted that on September 29, 2015, the District Magistrate, Nadia as the Arbitrator under Section 3G(5) of the Act of 1956 has passed a decision fixing the rate of compensation on various classes/categories of land, which were acquired under the Act of 1956 for the purpose of widening of the National Highway-34. From a reading of the said decision dated September 29, 2015, it is evident that the same is not an award under Section 31 of the Act of 1996 deciding the petitioners' claim for higher amount of compensation.

It appears that the District Magistrate who passed the decision dated September 29, 2015 is no more available and, as such, his mandate as an Arbitrator stands terminated.

For the reasons aforesaid, the writ petition, being WPA 2413 of 2020 succeeds and the same is allowed with the following directions.

The present incumbent of the respondent No. 6 herein, is directed to proceed with the arbitration proceeding afresh and pass a reasoned award dealing with the claim of the petitioners for higher quantum of compensation.

Needless to mention while deciding the arbitration proceeding afresh, the present incumbent of the respondent no. 6 shall make a fresh inquiry into the matter and ignore the decision dated September 29, 2015.

Since the respondents were not called upon to file any affidavit, the allegations made against them in the writ petition, if any, shall be deemed to have been admitted.

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

(Ashis Kumar Chakraborty, J.)