

22.03.2021
(S/L-10)
Ct.-18
(Susanta)

(Via Video Conference)

W.P.A. 4972 of 2021

Adrija Constructions Private Limited & Ors.
-Vs-
Union of India & Ors.

Mr. Jishnu Saha,
Mr. Jishnu Chowdhury,
Mr. Ishan Saha,
Ms. Riti Basu,
Ms. Piyali Pan,

..... For the Petitioners.

Mr. N. R. Mukherjee,
Mr. Surya Mukherjee,

..... For the Respondent Nos. 2 & 3.

Affidavit-of-service filed on behalf of the
petitioners in Court today be kept with the
record.

The Central Government in exercise of the
powers conferred by sub-section (1) of Section 7
of the Metro Railway(Construction of Works) Act,
1978 issued the notification No. SO2982(E)
dated September 02, 2020 declaring its intention
to acquire the lands building, streets road or
passage or the right of user or right in the nature
of easement therein as specified in the schedule
appended to the said notification.

Objection to such acquisition in terms of
sub-section (1) of Section 9 of the said Act was
invited from any person interested in the said
lands, building etc within 21 days from the date

of publication of the substance of the said notification.

The petitioners in terms of sub-section (2) of Section 9 of the said Act filed objection. The competent authority by the order no. 5 dated December 21, 2020 has rejected the said objection which is under challenge in the present writ petition.

The petitioners objected to the acquisition of their lands, *inter alia*, on the following grounds:-

“ 1. That no land should be acquired.

2. Should there be any acquisition the entire land as mentioned in Annexure T and U should also be acquired as because of the proposed acquisition the land mentioned in Annexure T and U shall become valueless & Non developmental and the access to the said land will be completely blocked.

3. Alternatively allow the unhindered access to the affected land by changing the proposed acquisition graph/design.

4. You should make your stand clear now itself whether the proposed acquisition of land will be used for laying track or for setting up for the

depot because the decision as to whether the land will be used for track or depot will determine whether you will be able to provide unhindered access to the land or not. If you propose to set up a depot then the same should be shifted to any other place so that our land gets unhindered access.”

The said objection is appearing at Page 304 of the writ petition being Annexure “P-6”.

The Metro Railway, the respondent Nos. 2 and 3 herein had filed their reply to the said objection which is also appearing at page 320 of the writ petition being annexure “P-17”.

Rejoinder of the petitioners to the said reply is appearing at page 322 of the writ petition being annexure “P-18”.

These were the materials before the competent authority for deciding the objection of the petitioners.

On perusal of the order impugned it appears that the competent authority has not dealt with all the aforesaid grounds of objection of the petitioners although sub-section (2) of Section 9 of the said Act prescribes that every objector under sub-section (1) shall set out the grounds of objection and the competent authority shall give

the objector an opportunity of being heard either in person or by an agent or by a legal practitioner and after hearing all such objections and making such further enquiry, if any, the competent authority thinks necessary, may by order either allow or disallow the objections.

Therefore, the competent authority while deciding the objection under sub-section (1) of Section 9 of the said Act, is obliged to deal with each of the grounds of objection taken under sub-section (2) thereof.

The competent authority has not disposed of the objection of the petitioners in accordance with the provision of sub-section (2) of Section 9 of the said Act by not giving the finding on each grounds of objection of the petitioners, as such the said order is not sustainable.

The order impugned for the aforesaid reason is set aside.

W.P 4972 of 2021 is disposed of with a direction upon the competent authority, the respondent no. 4 herein to decide the objections of the petitioners afresh in accordance with law and to dispose it of as expeditiously as possible, preferably within a period of four weeks from the date of communication of this order and after giving the petitioners and all concerned parties an opportunity of being heard.

It is made clear that his Court has not gone into the merit of the grounds of objections of the petitioners.

Since no affidavit-in-opposition has been invited, the allegations made in the writ petition are deemed to have been denied by the respondents.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)