

03/02/2021
Item No. 17 DL
Court No.38
S. DE

Through Video Conference

W.P.A. 3929 of 2020

**Fazlur Rahaman Mondal & Ors.
-Vs-
The State of West Bengal & Ors.**

Mr. Avishek Prasad ...for the petitioners

Ms. Manika Roy ...for the N.H.A.I.

Mr. Chandi Charan De, Ld. Addl. Govt. Pleader

Mr. S. Sengupta

Mr. Subir Pal

Mr. Anirban Sarkar ...for the State respdts.

The petitioners say that their land was acquired under the provisions of the National Highways Act 1956. The competent authority determined the compensation payable to the petitioners. The petitioners were aggrieved by the quantum of compensation. Accordingly, the petitioners approached the arbitrator envisaged under Section 3G(5) of the National Highways Act 1956. This was done by making a written representation dated December 19, 2017. The petitioners say that this representation has been disposed of by the 3rd respondent who is the competent authority by rejecting the representation. The short grievance of the petitioners is that the representation made to the 2nd respondent (arbitrator) being the District

Magistrate, Nadia could be disposed of only by him and not by the 3rd respondent who is the Additional District Magistrate (Land Acquisition Collector), Nadia.

I have heard learned counsel for the petitioners and Mr. Dey, learned counsel for the State.

There is no doubt that the representation made to the 2nd respondent could not be disposed of by the 3rd respondent. The 3rd respondent could not act as an arbitrator in respect of a compensation determined by himself. This would be contrary to the fundamental principles of natural justice.

The impugned order dated September 12, 2018 is set aside. The 2nd respondent is directed to take a reasoned decision on the representation made by the petitioners regarding enhancement of compensation, in accordance with law, within a period of three months from the date of receipt of a copy of this order along with a copy of the writ petition, after giving an opportunity of hearing to any one of the petitioners or their representative as also representative of the State and representative of the National Highways Authority. The decision so taken shall be communicated to the parties within a week from the date of the decision.

I make it clear that I have not gone into the merits of the case. The 2nd respondent shall decide the petitioners' representation in accordance with law.

Since I have not called for affidavits, the allegations contained in the writ petition are deemed not be admitted by the respondents.

W.P.A. 3929 of 2020 is, accordingly disposed of.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Arijit Banerjee, J.)