

November 16, 2021

ARDR

(11)

WPA 4028 of 2019

Smt. Tanim Roy

Vs.

The State of West Bengal & Ors.

Mr. Debayan Bera,

Mr. Sakti Prasad Chakrabarti,

...for the petitioner.

Mr. Ram Chandra Guchait,

Mr. Partha Pratim Roy,

...for the State.

Affidavit of service filed by the petitioner be taken on record.

The report filed by the respondents be also taken on record.

Heard the learned counsels for the parties.

It is not in dispute that the land acquisition proceeding was initiated under the West Bengal (Requisition and Acquisition) Act, 1948 in respect of the petitioner's land and possession of the land was taken in 1960. Award was prepared and approved by the Collector on 24/9/2002 and declared on 24/10/2002. Admittedly, the petitioner received the award on 28/7/2003.

The petitioner complains that no notice under Section 12 of the Land Acquisition Act, 1894 (referred to as Act of 1894) was served upon her after the award was determined. The petitioner received the award on

protest and subsequently filed an application before the respondent no.3 under Section 18 of the Act of 1894 for reference to Court for determination of the amount of compensation and the like on 6th August, 2003. Such application is yet to be disposed of.

It is submitted on behalf of the respondent that in view of the provisions laid down under Section 18 of the Act of 1894, the petitioner is not entitled to file an application for reference to Court after receipt of the compensation amount. There is also nothing to show that such compensation was received on protest. However, it is not denied that the petitioner's application has not been considered by the authority.

Having considered the submissions made on behalf of the parties as well as the material on record, the writ petition is disposed of with a direction upon the respondent no.3 to consider and dispose of the application filed by the petitioner under Section 18 of the Act of 1894 on 6th August, 2003 after affording reasonable opportunity of hearing to the petitioner, within a period of two months from the date of communication of this order, in accordance with law.

With such observation, WPA 4028 of 2019 is disposed of. However, there shall be no order as to costs.

Since no affidavits are invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)