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

**WPA 4118 of 2020
(Via Video Conference)**

**Dinesh Chandra Pal
-Vs-
State of West Bengal & Ors.**

Mr. Partha Pratim Roy, Advocate
Mr. Dyutiman Mukherjee, Advocate
... for the petitioner

Mr. Susovan Sengupta, Advocate
Mr. Subir Pal, Advocate
... for the State

Ms. Manika Roy,
... for the NHAI

The subject matter of challenge in this writ petition is the decision dated February 23, 2017 passed by the District Magistrate, Nadia (hereinafter referred to as 'the impugned decision').

It is the case of the petitioner that his land situate at Mouza- Gachha, Dag No. 805, Police Station- Nakashipara, District-Nadia (hereinafter referred to as 'the said land') recorded as 'Aush' in the concerned record of rights has been acquired under the National Highways Act, 1956 (in short, the Act of 1956) for the public purpose of widening the National Highway-34. The rate of compensation awarded by the competent authority under Section 3G(1) of the Act of 1956 on account of acquisition of the said land, was not accepted by the petitioner. Accordingly, the petitioner required his claim for higher compensation being

referred to the Arbitrator under Section 3G(5) of the Act of 1956. By the impugned decision, the respondent No. 2 acting as the Arbitrator under Section 3G(5) of the Act of 1956 has only declared the enhanced basic rate approved by him in respect of different classes of land acquired for the aforesaid project situate in Mouza-Gachha. As per Section 3G(6) of the Act of 1956, proceeding before the respondent No. 2 Arbitrator under Section 3G(5) of the Act of 1956 is governed by the provisions of the Arbitration and Conciliation Act, 1996 (in short, 'the Act of 1996'), but the respondent No. 2 has not yet made or published the award in terms of Section 31 of the Act of 1996.

According to the petitioner, his land acquired under the Act of 1956 was also used as 'Bagan'(garden) but in the impugned decision, the respondent No. 2 has not mentioned the approved rate of compensation of any land used as Bagan (garden).

Further, since the respondent No. 2 has not passed any award deciding the claim of the petitioner for higher amount of compensation for his land used as Bagan (garden), reference of the claim of the petitioner under Section 3G(5) of the Act of 1956 remains pending before the Arbitrator.

The above facts could not be disputed either by the respondent National Highways Authority or the other respondents.

Since the District Magistrate, Nadia, who passed the impugned decision, has since been transferred to a new post, his mandate to proceed with the arbitration proceeding stands terminated.

For the reasons as aforesaid, the impugned decision dated February 23, 2017 passed by the District Magistrate, Nadia is hereby set aside and the writ petition, being WPA 4118 of 2020 is allowed with a direction upon the present incumbent of the respondent

No. 2 herein, to initiate an arbitration proceeding afresh to deal with the claim of the petitioner for higher amount of compensation on account of acquisition of his land used as Bagan(garden) and to publish an award under Section 31 of the Act of 1996, positively within a period of eight weeks from the date of communication of this order, after granting an opportunity of hearing to the petitioner.

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

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

(Ashis Kumar Chakraborty, J.)