

July 22, 2021

ARDR

(17)

WPA 4321 of 2020

Santosh Baidya & anr.

Vs.

The State of West Bengal & Ors.

Mr. Partha Pratim Roy,

Mr. Anirban Roy,

...for the petitioners.

Ms. Maanika Roy,

...for the NHAI.

Mr. Soumitra Bandhopadhyay,

Mr. Priyabarata Batabyal,

...for the State.

The petitioners seek enhanced compensation in respect of the subject premises which is being acquired by the respondents.

It is submitted on behalf of the petitioners that the petitioners had made two separate applications – one for compensation in respect of their premises and the other for compensation in respect of the structures, which has not been disposed of by the respondent authorities.

It is also submitted on behalf of the petitioners that an award passed under Section 3(G) (5) of the National Highways Act, 1956 is *non-est* in law and does not contain any reasons whatsoever.

The petitioners further submits that the notice for compensation which has been issued in respect of the subject premises does not specify whether compensation for land or structures has been paid or

not. In this background, the petitioners seek appropriate orders against the respondent authorities.

Ms. Roy appearing on behalf of the National Highway Authorities submits that the compensation amount appearing at Annexure P/5 to the writ petition is for enhanced compensation in respect of *aush* land. She further submits that the petitioners are not entitled to such an additional compensation and there is no reason to pass any order whatsoever in this writ petition.

Mr. Bandhopadhyay appearing on behalf of the State respondents takes the point of maintainability of the writ petition and submits that a final award has been passed under Section 3(G)(5) of the National Highways Act, 1956 and the only option available to the petitioners is to file an application under Section 34 of the Arbitration and Conciliation Act, 1996.

I have heard the submissions of the parties. I am of the view that in view of the fact that a final award dated 19th July, 2017 has been passed by the District Magistrate under Section 3(G) (5) of the Act, the instant writ petition is not maintainable since the petitioners have an alternative adequate statutory remedy and ought to have been availed of the same. There are no grounds pleaded or which have been made out for entertaining this petition and circumventing the prescribed statutory remedy.

In view of the aforesaid, WPA 4321 of 2020 is not maintainable and is dismissed. However, there will be no order as to costs.

(Ravi Krishan Kapur, J.)