

14.06.2021
Court No. 17
Item no.47
CP

WPA 7554 of 2018

Holodhar Sarkar
vs.
The State of West Bengal & ors.

(via video conference)

Mr. Pappu Adhikari
Mr. S. Dey
Mr. D. Das

....for the petitioner.

Mr. Deepak Kumar Singh

....for the railway authorities.

Mr. L. M. Mahato and Mr. Ayan Banerjee are directed to appear in this matter. The legal remembrancer is directed to regularise their appointments as none appears on behalf of the State respondents despite service and Mr. Mahato and Mr. Banerjee are already appearing in similar matters and are aware of the factual and legal issues involved.

The petitioner is a land loser who seeks compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the said Act). According to the petitioner, the North-East Frontier Railways are liable to award compensation in favour of the petitioner whose plots

of land have been utilized by the North-East Frontier Railways administration.

It is submitted that although the land was acquired under the Land Acquisition Act of 1894, the award was not declared and compensation was not paid to the land losers. As a result of which the land losers have been suffering. It is further submitted that under Section 24 of the said Act of 2013, compensation should be calculated as per the new act of 2013 and the proceeding will be conducted under the new law.

Mr. Singh, learned advocate for the railways, submits that the railways authorities had already sent the compensation amount to the collector but the same was returned.

Be that as it may, the grievance of the petitioner that no award had been declared, as contemplated under the 1894 Act, is a question of fact which is required to be answered by the acquiring body, i.e. the State respondents who are responsible for disbursing the award. The order of the Hon'ble Apex Court has decided such issues in the matter of Indore Development Authority vs. Manoharlal & ors., reported in (2020) 8 SCC 129.

This writ petition is disposed of directing the Special Land Acquisition Collector, Coochbehar, i.e. the respondent no. 6 to dispose of the representation

of the petitioner dated June 6, 2012 in accordance with law. This Court has not gone into the merits of the claim of the petitioner and the said authority is left to decide the issue independently on the basis of the records and submissions of the railways and other interested parties and order of the Hon'ble Apex Court referred above. While disposing the said representation the respondent no. 6 will give a hearing to the petitioner, the railway authorities and such persons likely to be affected by this order. After giving the hearing to the parties, a reasoned order should be passed and communicated to each of them. The entire exercise should be completed within a period of eight weeks from the date of communication of this order.

If the respondent no. 6 decides in favour of the petitioner, then the railway authorities shall take expeditious steps to comply with the order of the Special Land Acquisition Collector within a further period of eight weeks from the date of determination of the amount.

All parties are to act on the server copy of this order.

(Shampa Sarkar, J.)