

November 17, 2021

ARDR

(45)

WPA 11974 of 2021

Pratap Chandra Giri

Vs.

The State of West Bengal & Ors.

Mr. Goutam Chakraborty,

Mr. J. N. Manna,

Mr. Kartick Kumar Roy,

...for the petitioner.

Mr. Chandi Charan De,

Md. T. M. Siddiqui,

Mr. Anirban Sarkar,

...for the State.

On consent of the parties, liberty is given to learned counsel for the petitioner to add Special Land Acquisition Officer, South 24 Parganas as respondent no.8 in the writ petition within a week from date.

Supplementary affidavit filed on behalf of the petitioner be taken on record.

The grievance of the petitioner is that he was/is the owner of land in C. S. plot nos. 129 (part) and 57 in Mouza Kakdwip, J.L. no. 39, Khatian no. 99, Police Station Kakdwip, South 24 Parganas and his land was acquired by the Collector, South 24 Parganas vide Case no. D-12 of 53-54. Possession of the said land was taken by the authority and the land was utilised, but no compensation for the same has granted to the petitioner.

Referring to the status report filed by the respondent authorities the petitioner submits that the

award in respect of plot no. 129 was declared on 3rd May, 1958 in favour of Bhutnath Mal and eight others and the said award was placed in revenue department vide no. R/4049 dated 29th December, 1958. Learned counsel places reliance upon Memo no. LA(S) 8979 dated 15th February, 2019 issued by the State Public Information Officer and Additional Land Acquisition Officer, South 24 Parganas, in reply to his petition under RTI Act, 2005 which states that C. S. plot no.57 was also acquired. There is nothing to show that compensation was paid with regard to the said plot of land. The status report denying acquisition of the said plot is also contradictory to the memo dated 15/2/2019.

Learned counsel for the petitioner has drawn the attention of the Court to the proviso to Section 24 (2) of the Land Acquisition, Rehabilitation and Resettlement Act, 2013 which reads as follows:

“Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

Learned counsel submits that as the compensation in respect of plot no.129 was not deposited in the account of the beneficiaries, all the beneficiaries are entitled to compensation in accordance with the provisions of the 2013 Act.

In support of his contention, learned counsel also places reliance upon the judgment of the Hon'ble Supreme Court in the case of ***Indore Development Authority vs. Manoharlal & ors. Etc.*** reported in ***AIR 2020 SC 1946***. He placed reliance on paragraph 363 (4) of the said judgment, which reads as follows:

“The expression ‘paid’ in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the Act of 1894.”

Relying upon the said provisions of law, learned counsel for the petitioner prays for a direction upon the State authorities to pay him compensation in terms of the Act of 2013 as well as in compliance with the judgment of the Hon'ble Supreme Court, referred to above.

Learned counsel for the State authorities relies upon the status report filed by the Special Land Acquisition Officer, South 24 Parganas and submits that in view of the proposition of law in the judgment in *Indore Development Authority (supra)*, it is sufficient if the compensation amount is deposited either with the Court or the Revenue Department and

payment of same in favour of the individual land owners is not essential.

The petitioner, through his learned counsel, filed a representation before the authority ventilating his grievance on February 8, 2021, but the same has not been considered as yet. Several communications were exchanged between the petitioner and the authority and despite submitting a search report and income certificate as required by the authority, the petitioner's representation was not considered.

Having considered the submissions made on behalf of the parties and material on record, this Court is of the view that the representation submitted by the petitioner on February 8, 2021 ought to be considered and disposed of by the Special Land Acquisition Officer, South 24 Parganas (added respondent no.8) within a period of three months from the date of communication of this order on merits after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

The contention of the petitioner in the writ petition be treated as part of the representation submitted by the petitioner and be considered and disposed of by the concerned authority on merits.

With such observation, WPA 11974 of 2021 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.)