

16.11.2021
jb.

W.P.A. 21462 of 2017
(Dilip Kr. Bera & Ors. vs. State of West Bengal & Ors.)

Mr. Amit Pan
Mr. Haridas Das
.... For the Petitioners

Mr. Lalit Mohan Mahata
Mr. Prasanta Behari Mahata
.... For the State
Mr. Dipankar Das
.... For the NHAI

The petitioners are tenants in the disputed property and had been running their shops there. The petitioners' grievance is that the competent authority issued notice under Section 3A of the National Highways Act, 1956 for acquisition of the land in question. Objection was filed by the petitioners against such acquisition and hearing of such objection was in progress. Without disposing of the objection filed by the petitioners under Section 3C (2) of the 1956 Act, the competent authority acquired the land whereon the shop rooms of the petitioners were existing. Compensation granted for the same to the petitioners was

accepted by the latter on protest. The competent authority agreed to provide adequate rehabilitation to the petitioners under Section 30(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Despite representation submitted by the petitioners for such adequate compensation and rehabilitation, the competent authority has neither disposed of such representations, nor dealt with the grievances of the petitioners.

It is submitted on behalf of the petitioners that liberty be given to the petitioners to submit a comprehensive representation before the competent authority disclosing all their grievances and the same may be considered by the authority within a stipulated period of time. It is further submitted that during pendency of the writ petition, the National Highways Authority has taken forcible possession of the land by demolishing the shop rooms, thereby causing immense loss and damage to the petitioners.

It is submitted by the National Highways Authority that after acquisition of the land

a certificate of possession was issued by the competent authority in their favour and it is a fact that the land has been occupied by the authority. Learned counsel for the authority further submits that compensation has been paid to the owners of the land. The authority not having received assessment of compensation payable to the petitioners, they have not been able to pay the same.

It is submitted on behalf of the competent authority that the land has been acquired and compensation has been granted in favour of the petitioners. It is also submitted on behalf of the authority that the alleged protest raised by the petitioners was only verbal and there was no written agreement between the authority and the petitioners for payment of further compensation or rehabilitation.

It is not in dispute that the petitioners are tenants in respect of shop rooms which have been admittedly demolished by the National Highways Authority following acquisition, during the pendency of the writ petition. There is no document to show that the objection raised by the petitioners

against the notification for acquisition was disposed of by the competent authority in the final form.

Having considered the submissions made on behalf of the parties as well as material on record, this Court is of the view that the petitioners should be given liberty to submit a comprehensive representation before the competent authority (respondent No. 2) ventilating their grievances within two weeks from date. Such representation should be considered and disposed of by the respondent No. 2 within eight weeks from the date of communication of the representation after granting reasonable opportunity of hearing to the affected parties including the petitioners, in accordance with law. Copy of the order passed by the competent authority should be served upon the petitioners within a week thereafter.

W.P.A. 21462 of 2017 is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)