

08.02.2021
Item no. 23
Aloke
Ct. no.38

(Through Video Conference)
W.P.A. 18701 of 2019
Smt. Jamuna Patra & Ors.
Versus
The State of West Bengal & Ors.

Mr. Sayed Mosihar Rahman
... for the petitioners
Mr. Srijib Chakraborty
... for the State

The petitioners say that their land was acquired for the purpose of building a new dam on a river. That was in the year 2009. Compensation for such acquisition was not paid to the petitioners for a long time. Accordingly, the petitioners approached this Court by filing W.P. 29827(W) of 2017.

By an order dated June 27, 2018, this Court disposed of the writ petition by directing the District Magistrate/Land Acquisition Collector, South 24 Parganas, to dispose of the representation of the petitioners dated February 3, 2017, in accordance with law.

It appears that subsequently an order dated December 12, 2018 was passed by the District Magistrate, South 24 Parganas, recording that the compensation amount of Rs.1,61,771/- has been paid to one Shrimanta See alias Mantu See (respondent no. 8). On that ground, the claim of the petitioners was rejected.

Such order of rejection is under challenge in the present writ petition. The petitioners have also made subsequent representations to the authorities which have not yet been considered.

It appears that there is a dispute as regards the person who is entitled to receive the relevant compensation. The State says that the compensation has been paid to the respondent no. 8. The petitioners say that they are entitled to the compensation. This Court in the exercise of jurisdiction under Article 226 of the Constitution cannot decide such a disputed question of fact. Further, it may not be within the competence of the District Magistrate also to decide such question.

Accordingly, I direct the 2nd respondent to refer the question as to who is entitled to receive the compensation in respect of the land in question which was acquired, to the District Judge, South 24 Parganas, as contemplated in Section 18 (2) of the Land Acquisition Act, 1894. Let the 2nd respondent do this within four weeks from the date of receipt of a copy of this order along with a copy of the writ petition from the petitioners. The District Judge, South 24 Parganas, is requested to decide the question that would be referred to him expeditiously and preferably within four months from the date of reference of the matter to him.

If the District Judge finds that the petitioners are the people who are entitled to receive the compensation for

acquisition of the land in question, the State Government shall pay to the petitioners the compensation amount notwithstanding that the amount may have been paid to somebody who, in fact, is not entitled to receive such amount. In that case, the State Government will be at liberty to recover the amount from the person to whom it has been paid, after giving an opportunity of hearing to him.

No useful purpose will be served by keeping this writ petition pending.

W.P.A. 18701 of 2019, is, thus, disposed of.

Since no affidavit has been called for, none of the allegations in the writ petition shall be deemed to have been admitted by the respondents.

(Arijit Banerjee, J.)