

07.01.2021

p.b.
Sl. No.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 20975 of 2019

Aditya Roy & Anr.
Vs.
Union of India & Ors.

Mr. Arindam Das,
Mr. Biswajit Sarkar.
.....for the petitioners.
Ms. Manika Roy.
.....for the NHAI.
Mr. Supratim Dhar.
.....for the State.

The petitioners claim to be the owners of plots of land situated at Mouza Punglia, J.L. No.14, Police Station Chakdah in the district of Nadia (hereinafter referred to as “the said plots of land”). The said plots of land were acquired under the National Highways Act, 1956 (in short, ‘the Act of 1956’) for extension of the National Highway – 34. Petitioners’ grievance in this application is against the decision of the Arbitrator under Section 3G(5) of the Act of 1956. According to the petitioners, while passing the decision/award under Section 3G(5) of the Act of 1956, the Arbitrator has committed a patent illegality in not computing the amount of compensation receivable by them after considering the provisions the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 (in short, 'the Act of 2013').

It is to be noted that the petitioners have already received the amount of compensation as awarded by the Arbitrator being the respondent no.5. The petitioners, however, assert that they have not received a copy of the award made and published by the respondent no.5 in the arbitral proceeding.

As per Sub-Section (6) of Section 3G of the Act of 1956, the arbitral proceeding conducted by the respondent no.5 in this case was governed by the Arbitration and Conciliation Act, 1996 (in short, the Act of 1996). Thus, the petitioners could not dispute that in order to challenge the illegalities committed by the respondent no.5 Arbitrator in publishing the award of compensation, in alleged derogation of the provisions of the Act of 2013 they are required to file an appropriate application under Section 34 of the Act of 1996.

For the reasons as aforesaid, the writ petition being W.P.A. 20975 of 2019 stands rejected.

Since the petitioners asserted not to have received copy of the award passed by the respondent no.5 Arbitrator, the respondent no.5 is directed to forthwith serve a copy of the award made by him involving the petitioners case positively within two weeks from the date of communication of the order.

Since no affidavit in opposition has been called for and the writ petition is disposed of without any affidavit, allegations made in the writ petition shall be deemed not to have been admitted by the respondents.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, shall be given to the parties as expeditiously as possible.

(Ashis Kumar Chakraborty, J.)