

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APELLATE SIDE**

WPA 24354 of 2019

Ananda Mondal & Anr.

- Versus -

State of West Bengal & Ors.

**Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee**

.....For the petitioners

**Mr. Chandi Charan De
Ms. Reshmi Rahaman**

.....For the State

Ms. Manika Roy

.....For the respondent nos. 5 & 6

The subject matter of challenge in this application is a decision dated November 28, 2016 passed by the respondent no. 2, the District Magistrate of Nadia (hereinafter referred to as 'impugned decision').

It is the case of the petitioners that their land being Plot No. 667 of Mouza – Gabarkuli, J. L. No. 19, District – Nadia has been acquired under the National Highways Act, 1956 (in short, 'the Act of 1956') for widening of National Highway No. 34. The petitioners claim that their said land is the Viti land and they did not accept the compensation amount fixed by the competent authority under Section 3G(5) of the Act of 1956. By the impugned decision the Arbitrator has not decided the amount of compensation receivable by the petitioners on account of their Vity land but he only approved the basic rate of compensation payable in respect of three classes of land of

Mouza – Gabarkuli, P.S. – Dhubulia, District – Nadia. According to the petitioners, the respondent no. 2 while acting as an Arbitrator under Section 3G(5) of the Act of 1956 passed the impugned decision without deciding the amount of compensation receivable by the petitioners in respect of their said land belonging to the classes of Bari/Viti. The petitioners pray for an order directing the respondent no. 2 to publish the award under Section 3G(5) of the Act of 1956 by fixing the amount receivable by the petitioners on account of compensation in respect of their said plot of land.

Learned counsel appearing for the State respondents could not dispute the assertion made by the petitioners that the impugned decision of the respondent no. 2 is not an award under Section 3G(5) of the Act of 1956.

Considering the facts of the case I find that Section 3G(5) of the Act of 1956 casts an obligation on the part of the Arbitrator, being the respondent herein, to publish an award either allowing or rejecting the petitioner's claim for higher amount of compensation. When the Arbitrator allows the claim of the petitioner for higher amount of compensation, the arbitral award must disclose the amount of compensation receivable by the petitioner/land owner.

In the present case, by the impugned decision the respondent no. 2 only fixed the amount of compensation receivable by the owners of various types of land, namely, Aush/Aman/Baro/Viti and Dokan and the respondent no.

2 has not yet passed the award ascertaining the amount of compensation receivable by the petitioners in respect of their said plot of land.

For the reasons as aforesaid, the writ petition WPA 24354 of 2019 is allowed with a direction upon the respondent no. 2, District Magistrate of Nadia to pass an award disclosing the amount of compensation receivable by the petitioners on the basis of the valuation fixed in the impugned decision dated November 28, 2016. Such award shall be passed by the respondent no. 2 within three weeks from the date of communication of this order, after granting an opportunity of hearing to the petitioners.

There shall, however, be no order as to costs.

Since the respondents were not called upon to file any affidavit, the allegations made against them in the writ petition, if any, shall be deemed to have been admitted.

All parties, including the respondent no.2 shall act on a certified website copy of this order to be forthwith issued by the Department, subject to the petitioners fulfilling the required formalities.

(Ashis Kumar Chakraborty, J.)