

13-16 23.02.2021
+
84, 90-94
Sc

***CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION
(Via Video Conference)***

W.P.A. 377 OF 2021

Ujjal Kumar Dey

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 384 OF 2021

Nabakumar Saha

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 385 OF 2021

Jagat Chandra Dey

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 395 OF 2021

Anteswar Karjee

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 328 OF 2021

Narayan Chandra Paul

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 177 OF 2021

Debi Charan Sarkar

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 267 OF 2021

Subal Barman

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 269 OF 2021

Krishna Ghosh

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 271 OF 2021

Manibala Das

-vs.-

The State of West Bengal & Ors.

with

W.P.A. 273 OF 2021

Dulal Sarkar

-vs.-

The State of West Bengal & Ors.

Mr. Subinoy Dey
Mr. Pappu Adhikari
Mr. Debanjan Das.

....For the Petitioner
in all the writ petitions.

Mr. Subir Kumar Saha
Ms. Bedashruti Bose.

....For the State in
WPA 377 of 2021

Mr. Subir Kumar Saha
Mr. Bikramaditya Ghosh.

....For the State in
WPA 384 of 2021

Mr. Subir Kumar Saha
Ms. Bedashruti Bose.

....For the State in
WPA 385 of 2021

Mr. Bikramaditya Ghosh
Mr. Momenur Rahman.

....For the State in
WPA 395 of 2021

Mr. Subir Kumar Saha
Mr. Momenur Rahman.

....For the State in
WPA 403 of 2021

Mr. Bikramaditya Ghosh
Mr. Momenur Rahman.

....For the State in
WPA 267 of 2021

Mr. Subir Kumar Saha
Mr. Momenur Rahman.

....For the State in
WPA 271 of 2021

Mr. Subir Kumar Saha
Mr. Momenur Rahman.

....For the State in
WPA 328 of 2021

Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose.

....For the State in
WPA 177 of 2021

Mr. Hirak Barman

....For the Railways.

1. Affidavits-of-service, filed in Court today, be kept with the records.

2. This batch of writ petitions are related to a similar issue and accordingly, a conjoint hearing of the same has taken place before me.

3. In all the writ petitions the petitioners' main grievance is that in spite of acquisition having been taken place under the Land Acquisition Act, 1894, no compensation has been paid to them. The petitioners accordingly pray for a Writ of Mandamus upon the respondent authorities to disburse the compensation as per the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act of 2013').

4. Counsel on behalf of the petitioners further submits that a reading of Section 24(1)(a) of the Act of 2013 is categorical that where compensation has not been paid on land that has been acquired under the erstwhile Act, all the provisions of the Act of 2013 shall apply and compensation is required to be paid under the Act of 2013. He further buttresses his argument by placing paragraph 363 of the Apex Court judgment passed in reference in ***Indore Development Authority -vs- Manoharlal and Ors.***, reported in **2020 (8) SCC 129**.

5. Mr. Ghosh, learned counsel appearing on behalf of the State respondents including the respondent no. 6 submits that there is a requirement to carry out a survey to assess quantum of lands that have been acquired from the petitioners. He further fairly submits that the

disbursement of compensation is required to be done after having calculated the amount of compensation to be paid to each of the petitioners.

6. Counsel on behalf of the Railways being the respondents nos. 7, 8 & 9 submits that the compensation has been paid by the Railways to the acquiring body way back in the year 2012. Accordingly, he submits that a revision of the compensation may cause difficulty to the Railway authorities. He further prays for a direction to file affidavits in these matters.

7. I have heard counsel appearing for the parties and perused the materials on record. It is very evident that lands have been acquired from the petitioners without any compensation having been paid for over a decade. It is to be noted that these petitioners are basically farmers and do not have a regular source of sustenance. The action of the Government in not determining the compensation within time and making payment of the same to the petitioners is obviously against the principles established in law and therefore, is deprecated.

8. I see no purpose to be served by exchanging affidavits in these matters as the facts are crystal clear. Accordingly, I direct the respondent no. 6 to carry out a survey including that of the lands that

have been acquired from petitioners and thereafter determine the compensation within a period of three months from date.

9. Once the above process is complete, the authority concerned is directed to make payment to the petitioners within six weeks from the date of determination of the amount of compensation.

10. With the above direction, all the writ petitions are disposed of. There will be no order as to costs.

11. Since no affidavit-in-opposition is called for, the allegations made in these writ petitions are deemed not to have been admitted.

12. Photocopy of this order duly counter-signed by the Assistant Court Officer be kept with the records of all the writ petitions except W.P.A. 377 of 2021.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)