

S/L. 115.
20.09.2021
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**Calcutta High Court
In The Circuit Bench At Jalpaiguri
Appellate Jurisdiction**

W. P. A. 728 of 2021 (Via Video Conference)

Jibenswar Adhikary and others

-Vs.-

The State of West Bengal & others

Mr. Subhasish Misra

...for the petitioners.

Mr. Hirak Barman,

... for the Railways.

Mr. Subir Kumar Saha,

Mr. Pretom Das

... for the State

The main grievance of the petitioners 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').

Counsel on behalf of the petitioners further submits that a reading of Section

24(1)(a) of the Act of 2013 it would indicate 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 reliance on decisions of the Supreme Court.

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.

Counsel on behalf of the Railways being the respondent nos. 7 to 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 the matter.

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 unfair and against the principles established in law and therefore is deprecated.

I see no purpose to be served in calling for affidavits in these matters as the facts are undisputed. Accordingly, I direct the respondent no. 6 to carry out a survey including that of the lands that have been acquired from the petitioners and thereafter determine the compensation within a period of three months from date.

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.

With the above directions, the writ petition is disposed of.

There will be no order as to costs.

Since no affidavit in opposition is called for, the allegation made in the writ petition is deemed not to have been admitted.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)