

07.07.2022
Item No.09
Court No.6.
S. De

**F.M.A. 297 of 2019
With
I.A. No. CAN/2/2016
(Old No. CAN 6926 of 2016)**

**The State of West Bengal & Ors.
Vs
Keshov Prasad Shaw.**

Mr. Susovan Sengupta,
Mr. Subir Pal,
...for the appellants/State.
Mr. Debayan Bera,
Mr. Sakti Prosad Chakrabarti,
...for the respondent.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

In this case, the learned of the writ petitioner was acquired under the West Bengal Planning and Land Development Act, 1948. Section 8 of that Act provides that after publication of declaration, all the provisions of Land Acquisition Act, 1894 shall apply.

Award was made but compensation, in stead of being paid to the writ petitioner, was deposited with the treasury. Relying on the decision of the Hon'ble Supreme Court in the case of ***Pune Municipal Corporation & Anr. Vs. Harakchand Misrimal Solanki & Ors.***, reported in ***(2014) 3 SCC 183***, the learned Single Judge held that the land acquisition

proceedings had lapsed. Accordingly, the learned Judge directed the State respondents to initiate fresh proceedings in accordance with the Provisions of the 2013 Act. The State has come up in appeal.

During the pendency of the appeal, the constitution Bench judgment of the Hon'ble Supreme Court in the case of Indore Development Authority (2020 (8) SCC 129) has been pronounced. The effect of that judgment is that Pune Municipal Corporation is no more good law.

Mr. Bera, learned counsel appearing for the writ petitioner/respondent, in his usual fairness submits that in view of the constitution Bench judgment in Indore Development Authority, this appeal has to be allowed. Such exemplary fairness of Mr. Bera is highly appreciated by us.

The appeal is allowed. The order impugned is set aside.

F.M.A. 297 of 2019 is, accordingly, disposed of along with the application being I.A. No. CAN 2 of 2016 (Old No. CAN 6926 of 2016).

However, we make it clear that in the event the Hon'ble Supreme Court has occasion to reconsider the decision in Indore Development Authority and there is any change in the decision, the writ petitioner will be entitled to approach the Court, in accordance with law.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)