

22.
22-02-2022
debajyoti
(Ct. no.06)

FMA 89 of 2017
with
IA NO:CAN/1/2016 (Old NO:CAN/12133/2016)

Alik Khamrui
Vs.
Union of India & Ors.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji,
Mr. Suman Sankar Chattopadhyay,
Ms. Snigdha Saha,
Mr. Pronay Basak,
Ms. Trisha Rakshit,
Mr. Soumen Bandyopadhyay

... For the Appellant.

Mr. Dipankar Das

... For the NHAI.

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

Affidavit-in-Reply filed on behalf of the writ petitioner/appellant be taken on record.

The writ petitioner/appellant approached the learned Single Judge claiming compensation under the provisions of the National Highways Act. He alleged that several plots of land belonging to his ancestor were acquired, but no compensation was paid therefor. The acquisition proceedings, therefore, are deemed to have lapsed under Section 24 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and he is entitled to fair compensation as per the provisions of the National Highways Act.

The learned Judge called for a report in the form of affidavit from the concerned Land Acquisition

Collector. From the report, the learned Judge found that the land was acquired way back in 1958 under LA Case No.15 (Act-II) of 1957-1958 by the State. The award was made and compensation money was paid to the ancestor of the writ petitioner, namely, Rakhal Charan Khamrui. In view of the aforesaid, the learned Judge dismissed the writ petition. Hence, this appeal.

We have heard Mr. Uday Sankar Chattopadhyay, learned advocate, for the appellant at length. We have also heard Mr. Dipankar Das, learned advocate, for the National Highways Authority.

Mr. Chattopadhyay urged that compensation for the land in question was never paid by the State Government. The writ petitioner is still in possession of the land and is enjoying the same. There is nothing to show that the ancestor of the appellant was paid compensation. Hence, he submitted that we should intervene.

From the records, it appears that an award was made and compensation was paid to the appellant's ancestor. It further appears from a Certificate of Possession, which is on record, that possession of the land was taken on March 07, 1958. Mr. Chattopadhyay, appearing on behalf of the appellant, disputes these facts. These disputed facts cannot be conveniently adjudicated in the writ jurisdiction, particularly, more than fifty years after the acquisition proceedings were initiated. The acquisition case is of 1957-58. The writ petitioner approached the learned Single Judge in 2016, i.e., after 55 years.

Mr. Chattopadhyay has relied on a Constitution Bench decision of the Hon'ble Supreme Court in the case of **Indore Development Authority Vs. Manoharlal & Ors.**, reported at **(2020) 8 Supreme Court Cases 129**, in support of his proposition that the acquisition proceedings must be deemed to have lapsed in terms of Section 24 of the 2013 Act.

We have carefully considered the decision. The facts of the case were completely different. The propositions of law laid down naturally are binding on all courts in India. However, in the facts of the present case, the decision does not have much relevance.

In view of the aforesaid, we are unable to grant any relief to the writ petitioner/appellant. However, this order will not prevent the appellant from approaching the appropriate forum in accordance with law to ventilate his grievance, if he is entitled to do so.

The appeal and the connected application are, accordingly, dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.) (Arijit Banerjee, J.)