

WPA 2477 of 2022

Rahamat Mollick & ors.
Vs.
The State of West Bengal & Ors.

Mr. Rwitendra Banerjee, Ms. Salma Sultana Shah,	...for the petitioners.
Ms. Rini Bhattacharyya,	...for the DFCCI.
Mr. Sanajit Kumar Ghosh, Mr. Rajaj Ghosh,	...for the respondent no.5.
Mr. Uttiya Ray, Mr. Arnab Mandal,	...for the respondent no.6.
Ms. Sutapa Sanyal, Ms. Susnita Saha,	...for the State.

Affidavit of service filed by the petitioners is taken on record.

Report filed by the State respondents is also taken on record.

The grievance of the petitioners is two fold:-

Firstly, The Wakf Board has not been made a party to the proceedings under the Land Acquisition Act, 1894 by the State authority and secondly, the State authorities are bent on disbursing the award in favour of the private respondents without participation of the Board.

Section 91 of the Wakf Act, 1995 clearly demonstrates that a notice of acquisition under the Land Acquisition Act, 1894 or under any other law relating to

acquisition of land or other property which is Wakf property shall be served by the Collector on the Board and further proceedings shall be stayed to enable the Board to appear and plead as a party to the proceedings at any time within three months from the date of receipt of such notice.

It is not in dispute that such notice under Section 91 of the Act of 1995 has not been served on the Board till date.

It is submitted on behalf of the Wakf Board that the entitlement with regard to the award shall be decided in the suit pending before the Wakf Board by and between the petitioners and the private respondents.

Placing reliance on the report submitted by the Additional Land Acquisition Officer and Land Acquisition Collector, Hooghly, learned counsel for the State respondents submits that the award amount is kept in P.L. account of the District Magistrate and Collector, Hooghly and shall not be paid to any of the parties without involving the Wakf Board before finalising such award. It is further submitted that there is a dispute between the petitioners and the private respondents inter se and the Wakf Board shall decide with regard to the entitlement to the award which shall abide by the result of the suit.

In view of the same, the writ petition is disposed of directing the State respondents to serve notice on the

Wakf Board in terms of Section 91 of the Wakf Act, 1995 within seven days from the date of communication of this order. On receipt of such notice, the Wakf Board shall be at liberty to participate in the acquisition proceedings in accordance with law. Pending disposal of the suit, the award determined shall not be disbursed to any of the parties.

The petitioners are directed to communicate this order to all the parties for necessary compliance.

With the above observations and directions, WPA 2477 of 2022 is disposed of. There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)