

01.03.2022
Item No. 47
Court No.6.
S. De

Through Video Conference

**F.M.A. 1620 of 2015
I.A. No. CAN 1 of 2015
(Old No. CAN/2319/2015)**

**Asim Chandra Kumar.
Vs
The State of West Bengal & Ors.**

Mr. Amal Baran Chatterjee, Ld. Sr. Adv.
Mr. R.P. Pal,
Ms. Indrani Pal,
...for the appellant.
Mr. Soumitra Bhattacharyya,
Mr. Aniruddha Sen,
...for the State Respondents.

This is an appeal against a judgment and order dated October 30, 2014 whereby W.P. No. 12720(W) of 2010 was dismissed.

The writ petitioner challenged a notice dated June 13, 1979 issued by the respondent authorities. By such notice the writ petitioner was informed that certain lands described in the schedule to the notice, of which the writ petitioner was the owner, had been requisitioned by the authorities under Rule 75A of the Defence of India Rules for the purpose of maintaining supply and services essential to the life of the community. The requisition continued under the West Bengal Requisitioned Land (Continuance of Powers) Act, 1951. By the said notice, in exercise of power under Section 5(1) of the said Act, the Collector of the

concerned district called upon the writ petitioner to show-cause within fifteen days from the date of service of the said notice as to why the plots of land in question, should not be acquired. The date of hearing mentioned in the notice was August 1, 1979.

The acquisition process was carried to its logical conclusion. An award has also been made for a sum of Rs.11,09,000/- approximately. The appellant says that he has not received any money from the Government. According to him, the land in question, is worth about Rs. 5,00,00,000/- presently. Even as on the date of acquisition i.e. in the year 1979, the land was worth about Rs. 37,00,000/-.

Learned advocate for the appellant says that the awarded amount is a pittance compared to the actual value of the land. Either compensation should be enhanced or the land, or part of the land at least, should be released in favour of the appellant since the entirety of the land has not been put to any use by the Government.

These are matters which we are unable to consider. It was open to the appellant to move the appropriate forum either for enhancement of the awarded amount or otherwise challenging the awarded amount. If it is still open to the appellant to take such steps in accordance with law, he is at liberty to do so. The question of this Court directing the Government to

release part of the acquired land in favour of the appellant does not arise. In fact, there is no provision in the Land Acquisition Act for release of the land in favour of the person from whom it was acquired.

The learned Single Judge noted that the writ petitioner/appellant was taking mutually inconsistent stands. On the one hand he was saying that the acquisition was bad in law and on the other hand he was saying that the awarded amount was inadequate and should be enhanced. The learned Judge recorded that the appellant had approached various authorities with his prayer for release of the land from acquisition on the ground that market value of the land is immense and the awarded amount is negligible compared to such value. Ultimately, the learned Single Judge held that the purported challenge to the acquisition after twenty four years is impermissible.

We find no infirmity in the reasoning or conclusion of the learned Single Judge. We find no reason to interfere with the order under appeal.

F.M.A. 1620 of 2015 is, accordingly, dismissed along with the connected application being I.A. No.CAN/1/2015 (Old No.2319 of 2015).

However, this will not prevent the appellant/writ petitioner from making appropriate representation before the competent authority regarding his request for release of the land in question or portion thereof. If

such representation is made within a month from date, the competent authority shall consider and dispose of the same, in accordance with law, within a period of four months from the receipt of such representation, after giving an opportunity of hearing to the appellant or his authorized representative. The decision so taken shall be communicated to the appellant within a week from the date of the decision.

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.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)