

March 2, 2022

ARDR

(5)

WPA 3661 of 2022

Monoranjana Mondal & anr.

Vs.

The State of West Bengal & Ors.

Mr. Anindya Lahiri,
Mr. Samrat Dey Paul,
Mr. Kartick Mandal,

...for the petitioners.

Mr. Partha Sarathi Bhattacharya,
Mr. Sufi Kamal,
Mr. Raju Bhattacharya,

... for the respondent nos. 6 and 7.

Mr. Chandi Charan De,
Mr. Soumira Bandyopadhyay,
Mr. Haripada Maity

...for the State.

The order impugned informing determination and declaration of compensation in L.A. case no. 16 (NH-19)/20-21 issued on 6th January, 2022 is under challenge in the writ petition.

It is submitted on behalf of the petitioners that the property in question was purchased by the petitioners by virtue of deeds of conveyance executed in 1981 and 1985. The petitioners executed a deed of partnership on 4th February, 1987 for setting up a cold storage under the name and style of "Satima Cold Storage" which was registered on 26th August, 1996. The petitioners prayed for conversion of the nature of the land to "Cold Storage", which was allowed. On 1st February, 2006, the fifth and sixth respondents were added as partners to the

partnership firm and held majority shares of the said firm. The record of rights in regard to the land in question being wrongly recorded in the name of the cold storage, the petitioners applied before the Block Land and Land Reforms Officer for rectification of the same and recording of the said land in the name of the petitioners. The said prayer was turned down by the authority as against which the petitioners preferred a statutory appeal under Section 54 of the West Bengal Land Reforms Act, 1955, which is subjudice.

The land in question was acquired by the National Highways Authority and notification under Section 3-G was issued to that effect on 4th July, 2021. The petitioners approached the authority indicating that the land in question belonged to the petitioners alone and the private respondents had no right, title or interest in respect of the same. Despite such communication made by the petitioners, the award was declared in favour of “Satima Cold Storage” by the concerned authority. The title suit filed by the private respondents against the petitioners claiming right, title and interest in respect of the property in question is also pending before the regular civil court.

By the notice impugned, the competent authority under the National Highways Authority Act, 1956 and the District Magistrate, Purba Bardhaman informed the petitioners that the compensation was determined and declared in favour of the awardee and would be paid as

per law in absence of any stay order against payment of the same. The petitioners are aggrieved by the said notice of the authority for the reason that an award declared in favour of the awardee/the firm shall include the petitioners as well as the private respondents whereas only the petitioners are entitled to receive such compensation, the private respondents having no right, title or interest in respect of the property in question and being only partners of the firm.

Learned counsel for the private respondents does not dispute the factual aspects of the writ petition. According to learned counsel, the land in question being part of the property of the firm is owned by the petitioners as well as the private respondents as partners of the firm jointly and the petitioners cannot claim exclusive title over the same. The firm has been declared as awardee in the proceedings and there is no dispute with regard to the same. Therefore the question of reference to the court of original jurisdiction under Section 3H(4) of the Act of 1956 does not arise.

It is not in dispute that the petitioners and the private respondents are partners of the business in the name and style of Satima Cold Storage. The petitioners claim to be the owners of the land in question in exclusion of the private respondents whereas the private respondents claim that they are also owners of the land along with the petitioners, as partners of the firm. The

dispute between the parties with regard to right, title and interest in respect of the land in question is pending for adjudication before the Court of the Civil Judge (Junior Division), 2nd Court, Purba Bardhaman.

It is trite law that the award declared by the competent authority should be disbursed to the person having right, title and interest in respect of the land in question. When such right is under challenge before the regular civil court, the competent authority should be restrained from disbursing the amount to any of the parties, whether the petitioners or the private respondents, till such dispute is adjudicated on merits by the competent court.

In view of the above, the notice impugned dated 6th January, 2022 be stayed. The compensation amount declared on 31st December, 2021 shall remain with the competent authority, the second respondent herein, till the right of the parties with regard to the property in question is adjudicated and declared by the competent court of law.

It is made clear that the civil court shall deal with the matter on merits independently on the basis of the evidence produced by the parties before it, without being influenced by any observation made in the body of the order.

With the above observations and directions, WPA 3661 of 2022 is disposed of. However, there shall be no order as to costs.

Since no affidavits are invited, the allegations contained in this writ 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.)