

21.04.2022
Item 1, 2
Court No.6.
AB

W.P.C.R.C. 27 of 2022
In
W.P.A. 8628 of 2020

Rajesh Dutta
Vs
Soma Das

With

R.V.W. 78 of 2021
With
IA CAN 1 of 2021
IA CAN 2 of 2021

The State of West Bengal & Others
Vs
Rajesh Dutta & Ors.

Mr. S. Das Mahapatra....for the Petitioner in
WPA 8628 of 2020.

Md. T. M. Siddiqui,
Mr. N. Chatterjeefor the State/Review
Applicant in RVW 78 of 2021.

Mr. Soumitra Bandopadhyay,
Mr. Aniruddha Sen,
....for the alleged Contemnor.

In re : IA CAN 2 of 2021

This is an application for condonation of delay of
106 days in filing the present review application.
Causes shown being sufficient, the delay is condoned.

IA CAN 2 of 2021 stands, accordingly, disposed
of.

In re : RVW No.78 of 2021

This application has been filed for review of an order dated February 5, 2021, whereby WPA 8628 of 2020 was disposed of.

The brief facts of the case are that the writ petitioner approached the Writ Court with a grievance that in spite of his land having been acquired under the provisions of the National Highways Act, 1956, and in spite of there being a statement in the notice under Section 3H(2) of the Act of 1956 that the writ petitioner is entitled to receive Rs.1,04,58,690/- on account of compensation, no money was paid to him.

By an order dated December 16, 2020, a learned Judge of this Court directed the Special Land Acquisition Officer, Paschim Medinipur to pay the said sum to the writ petitioner forthwith and positively within January 15, 2021. The writ petition was directed to be listed on a later date.

The writ petition came up for hearing before me on February 5, 2021. I was told that the writ petitioner had received the aforesaid compensation amount by January 15, 2021. However, the writ petitioner prayed for some amount of interest in view of the delay in disbursement of the compensation amount.

I recorded in the order under review that there was an undated notice issued by the respondent no.8 addressed to the writ petitioner intimating that the respondent no.8 being the Special Land Acquisition

Officer, Paschim Medinipur had made an award in favour of the writ petitioner on 18.02.2019 for a sum of Rs.1,04,58,690/-. I observed that the said amount should have been paid to the writ petitioner soon thereafter. However, the same was not done. The writ petitioner had to activate the machinery of the Writ Court to receive his payment which he received about two years after the award was made. Accordingly, I directed payment of interest @ 10% p.a. for the period from March 1, 2019 (considering that the award was made on February 18, 2019) till the date of payment of the compensation.

Appearing for the review applicant, Mr. Siddiqui learned Counsel submits that at the time when the order under review was passed, certain material facts could not be placed before this Court. He says that various litigations were pending concerning the same plot of land, which is involved, and, accordingly, the respondent authorities were advised not to disburse the compensation amount.

I enquired of Mr. Siddiqui as to whether there was any order from any competent Court restraining the respondent authorities from paying the compensation amount in respect of the land in question. The answer was in the negative. Hence, the respondents were under no legal disability to make the payment. Mere pendency of certain litigations, in my

view, was not a valid ground for the respondent authorities to withhold the lawful dues of the writ petitioner. I have no doubt in my mind that the respondent authorities ought to compensate the writ petitioner for the delay in disbursement of the compensation amount as the writ petitioner was deprived of the user of such money for a considerable period of time.

Further, I do not find that any of the grounds mentioned in Order 47 Rule 1 of the Code of Civil Procedure, for review of my earlier order has been made out. I find no error apparent on the face of the order. The facts that the review applicant is now seeking to place before me to justify the delay in disbursement of the compensation amount to the writ petitioner, are not such that the same could not have been placed before me even after exercise of due diligence when the order under review was passed.

It is settled law that a review Court does not sit in appeal over its earlier order nor rehears the matter on merits. The order under review was passed after hearing and in the presence of all the parties including the review applicant. I find no reason to change the order dated February 5, 2021.

The Review Application being RVW No.78 of 2021 is, accordingly, dismissed along with IA CAN 1 of 2021 without however any order as to costs.

In re : WPCRC 27 of 2022

Let the alleged contemnor file an affidavit in answer to the Rule within four weeks from date.

Let the contempt application be listed once again on 9.6.2022.

(Arijit Banerjee, J.)