

23.08.2022
Item No.2
Court No.6.
S. De

M.A.T. 832 of 2016
I.A. No. CAN 1 of 2016
(Old No. 5161 of 2016)
I.A. No. CAN 2 of 2016
(Old No. 5170 of 2016)

Sri Bhupal Bahadur Singh since deceased
represented by his legal heirs Alok Kumar Singh &
Ors.
Vs
The State of West Bengal & Ors.

Mr. Sankar Prashad Dalapati,
Mr. Satyajit Mahata,
Mr. Safix Dewan,
Mr. Subrata Sarkar,
...for the appellants.

Mr. Srijan Nayak,
Mrs. Rituparna Moitra,
...for the Balurghat Municipality.
Mr. Jaharlal Dey,
Mr. Aniruddha Mahata,
...for the State.

In re : I.A. No. CAN/1/2016 (Old No. CAN 5161
of 2016)

This is an application for condonation of delay of
197 days in filing the appeal. Causes shown being
sufficient, the delay is condoned.

CAN 5161 of 2016 is, accordingly, disposed of.

In re : MAT 832 of 2016 & I.A. No. CAN/2/2016
(Old No. CAN 5170 of 2016)

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

This appeal is directed against a judgment and order dated September 29, 2015, whereby W.P. No. 10807(W) 1997 was dismissed as having become infructuous.

It is not in dispute that land of which the appellants/writ petitioners claim to have been co-owners, was acquired by the State Government in connection with L.A. Case No.6 of 1982-83 for the benefit of Balurghat Municipality (requiring authority).

Not having received compensation for such acquisition, the appellants/writ petitioners approached the learned Single Judge. The grievance that was ventilated before the learned Single Judge was that Award has not yet been passed by the Collector. It was submitted on behalf of the Municipality before the learned Judge that a reference under Section 18 of the Land Acquisition Act, 1894 is pending which necessarily means that Award has been published. Learned Judge, on the basis of such submission observed that the writ petition has become infructuous and, accordingly, dismissed it. Hence, this appeal.

We have gone through the affidavit-in-opposition filed on behalf of the State as well as the Municipality responding to the averments made in the stay petition. The State, in no uncertain terms has stated that no Award has been published as yet. However, an

amount of approximately Rs. 1.30 crores has been tentatively determined as the compensation. But, the State has not been able to pay any compensation since the requiring body has not put in the requisite funds.

Two things are clear. Firstly, land of the appellants/writ petitioners was acquired and has been utilized for public purpose. The State or the requiring body is not in a position to return the land to the appellants/writ petitioners. Secondly, the appellants/writ petitioners have not received compensation excepting for a paltry sum of Rs.36,000/- approximately as stated by learned advocate for the appellants/writ petitioners. No citizen can be deprived of his property except in accordance with law and without being duly compensated therefor. Otherwise, it would amount to unlawful expropriation which our Constitution does not permit.

The respondent authorities are directed to complete the acquisition proceedings in accordance with the applicable law or any other Government policy that the State may have formulated within a period of four months from the date of communication of this order and pass an Award within that time period. The Award amount shall be paid to the appellants/writ petitioners within a period of four weeks thereafter, failing which the Award amount will carry interest at the rate of 8% per annum till the date

of payment. Neither the appellant nor we are concerned with who will bear the burden i.e. the State or the requiring authority. It is for them to sort out that issue. The bottom line is that the land of the appellants/writ petitioners having been acquired, due compensation therefor must be paid to them and within the time period indicated above. Needless to say, the Collector shall consider all the relevant documents and the Government Circulars in deciding the compensation amount after giving an opportunity of hearing to the appellants/writ petitioners or their authorized representatives as also the representative of the Municipality. Already about forty years have elapsed since the land of the appellants was acquired and they are yet to be compensated. This is, to say the least, shameful on the part of the respondent authorities.

The appeal being MAT 832 of 2016 is, accordingly, disposed of along with the application being CAN 5170 of 2016.

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.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)