

November 29, 2022
ARDR
(47)

WPA 12631 of 2018

Nityananda Mondal & Ors.
Vs.
The State of West Bengal & ors.

Adv. Biswarup Biswas,
Adv. Moumita Mondal,

...for the petitioners.

None appears for the respondents. No report is submitted.

It appears from the conduct of the State respondents that they are no longer interested to contest the writ petition.

Heard learned counsel for the petitioners.

The petitioners complain that an earlier order passed by this Court in WP 23332 (W) of 2015 on 8th August, 2017 has not been complied with by the State respondents till date. The petitioners also refer to the authority in ***M/s. Delhi Airtech Services Private Limited & anr. vs. State of U.P. & anr.*** in Civil Appeal No. 24 of 2009 passed by the Hon'ble Supreme Court on October 14, 2022 in support of his contention.

The order passed by the coordinate Bench of this Court in the earlier writ petition is set out.

"08.08.2017

pb
Ct. No. 9

W.P. 23332 (W) of 2015

Mr. Nirmalendu Bera,
Mr. Gora Chand Samanta,
....for the petitioner.

*Mr. Chandi Charan De,
Mr. Ram Chandra Guchait,
...for the State.*

The petitioners have filed this writ petition praying for direction upon the respondents to make payment of compensation for acquiring the land of the petitioners.

It is contended on behalf of the petitioners that the State respondents acquired the land of the petitioners by initiating land acquisition proceeding being L.A. Case No.4/4 of 2010-2011. The further contention of the petitioners is that notification under Section 4 of the Land Acquisition Act, 1894 was issued on July 29, 2010 and declaration under Section 6 of the said Act was published on December 2, 2010. It appears from the report submitted by the respondent no.2 that the land acquisition proceeding could not be completed due to objection from the local people and the proceeding ultimately lapsed on December 1, 2012.

Admittedly, no award was passed in favour of the petitioners in connection with land acquisition proceeding being L.A. Case No.4/4 of 2010-2011, by which land of the petitioners was acquired by the State respondents. Since award was not passed under Section 11 of the Land Acquisition Act, 1894, the land acquisition proceeding initiated against the petitioners under the Land Acquisition Act, 1894 is lapsed by operation of law under Section 24 (1) (a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Accordingly, the State respondents should have released the land of the petitioners from

acquisition proceeding or the State respondents are at liberty to initiate fresh land acquisition proceeding under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within a period of three months from the date of communication of the order.

With the above direction, the writ petition is disposed of.

(R.K.Bag,J.)”

In the authority of Delhi Airtech Services Private Limited (supra) the Hon’ble Supreme Court has spelt out the mode of determination of market value upon taking into consideration the date of Section 4 notification and the date of dispossession of the incumbent from the property in question.

In view of the same, the writ petition is disposed of directing the 2nd respondent to comply with the order passed by this Court on 8th August, 2017 in WP 23332 (W) of 2015 and in tune with the directions laid down by the Hon’ble Supreme Court in the judgment referred to above within two months from the date of communication of this order after giving reasonable opportunity of hearing to all the interested persons including the petitioners, in accordance with law. Upon determination of the amount of compensation payable to the petitioners, the said amount be paid to the petitioners within a month thereafter.

With the aforesaid directions, WPA 12631 of 2018 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)