

08.06.2022
Item No.28
Court No.6.
S. De

F.M.A. 63 of 2022

With

I.A. No. CAN/1/2022

Dipak Biswas.

Vs

State of West Bengal & Ors.

Mr. Tapash Kr. Bhattacharyya,
Mr. Aviroop Bhattacharyya,
...for the appellant.
Mr. T.M. Siddiqui,
Mr. Nilotpal Chatterjee,
...for the State.

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

Affidavit-of-service filed in Court be kept with the records.

The order dated July 27, 2021 whereby W.P.A. 8038 of 2013 was dismissed, is the subject matter of challenge in the present appeal.

The writ petitioner/appellant claims to be owner of about 33 decimal of land. He says that soon after he started construction on his own land, the Public Works Department of the Government of West Bengal served a notice on him to stop construction alleging that such land was Public Works Department's land.

The writ petitioner challenged such notice by way of a writ petition. The writ Court referred the matter to the L.A. Collector for a decision in the matter.

By an order dated December 2, 2010, the concerned L.A. Collector came to a finding that the writ petitioner was making construction on his own land and not on land acquired by Public Works Department.

Thereafter, the petitioner obtained an information slip from the concerned department which showed that about 2.5 decimal of the petitioner's land had been acquired for the benefit of Public Works Department. The petitioner made a representation dated November 8, 2012 to the Land Acquisition Collector, Nadia for payment of compensation in respect of the land acquired by Public Works Department. Such representation not having been considered, the writ petitioner again approached this Court by way of the present writ petition.

The learned Single Judge observed that the order dated December 2, 2010 passed by the L.A. Collector, Nadia was the subject matter of challenge in the writ petition. However, that is not the case. The writ petitioner's prayer was for compensation in respect of the land acquired by Public Works Department.

We are of the view that the learned Judge could not be properly assisted as a result of which His Lordship proceeded on an erroneous basis. The order under appeal is set aside.

We direct the L.A. Collector, Nadia, being the respondent no.2 to consider and take a reasoned decision on the writ petitioner's representation dated November 8, 2012 (Annexure P-12 to the writ petition), in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order along with a copy of the writ petition, after giving an opportunity of hearing to the writ petitioner/appellant or his authorized representative. The decision so taken by the respondent no.2 shall be communicated to the writ petitioner within a week from the date of the decision. Needless to say, if the respondent no.2 finds that the claim of the writ petitioner has merits, appropriate orders will be passed by so that the writ petitioner receives applicable compensation at an early date.

We have not gone into the merits of the appellant's claim. The respondent no.2 shall take an informed decision in accordance with law.

F.M.A. 63 of 2022 is, accordingly, disposed of along with the application being I.A. No. CAN 1 of 2022.

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.

(Subhendu Samanta, J.)

(Arijit Banerjee, J.)