

D/L
Item No. 25
22.07.2022
KOLE

MAT 889 of 2015
With
IA No. ASTA 1 of 2015 (Old No. ASTA 86 of 2015)
With
IA No. ASTA 2 of 2015 (Old No. ASTA 87 of 2015)
With
IA No. CAN 3 of 2016 (Old No. CAN 7913 of 2016)
The State of West Bengal & Ors.
-Vs.-
Malay Mukherjee & Ors.

Mr. Suman Sengupta, Ld. AGP
Mr. S. Chatterjee,

...for the appellants/State.

Mr. S. Talukdar,
Mr. A. Sarkar,

...for the KMDA.

Mr. Sudhangshu Nath,
Mr. S. Banerjee,
Mr. G. Molla,
Mr. R. N. Chakraborty

...for the respondent nos. 1 to 4.

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

Written instructions submitted by Special Land Acquisition Officer, Howrah Improvement Trust, be kept with the records.

The writ petitioners, who are respondents in this appeal, approached the learned Single Judge by filing WPA 27617 (W) of 2014, contending that their land was acquired by the State but they have not received compensation. It was submitted on behalf of the State that the land of the writ petitioners was taken over and utilized for extension of Kona Expressway. It was also submitted that no award has been

passed. Today, however, learned Advocate for the State says that the land although taken over, was not utilized for any purpose. The learned Single Judge passed the order impugned, the operative portion whereof reads as follows:-

“The action of the State authorities are totally illegal, unfair and contrary to Article 300A of the Constitution of India. However, the respondent authorities are obliged to pay current market price to the petitioners in terms of the provision of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Accordingly, the respondents including the Land Acquisition Collector are directed to assess the current market price of the petitioners’ land within four weeks and to make payment by four weeks thereafter.”

Being aggrieved, the State is before us by way of the instant appeal. It has been submitted on behalf of the State that the writ petitioners are not the owners of all the plots of land which were sought to be acquired. They are the owners of only one plot of land. Documents have been disclosed by the State in support of this contention of theirs. This is, however, strongly disputed on behalf of the writ petitioners.

We are not inclined to enter into these factual disputes. In our opinion, these disputes should be resolved by a Competent Officer in the administration.

Accordingly, we send this matter to the Special Land Acquisition Officer, Howrah Improvement Trust for deciding as to how many plots of land belonging to the writ petitioners were requisitioned by the State. The State and the writ petitioners will be at liberty to adduce documentary

evidence before the Officer. After ascertaining how many plots of land of the writ petitioners were requisitioned, the Officer shall proceed to complete the acquisition in respect thereof in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. We say this because notice under section 9 (3A) of the Land Acquisition Act, 1894 though was issued, no further steps were taken and the acquisition proceedings thereafter lapsed. As on 01.01.2014, there was no award. Hence, the 2013 Act would apply as per Section 24 of that Act.

The entire exercise before the Special Land Acquisition Officer shall be completed within a period of four months from the date of communication of this order. The parties shall fully cooperate with the Special Land Acquisition Officer to help him decide the extent of land of the writ petitioners which was taken over by the State. The writ petitioners must be paid applicable compensation within 6 months from date.

We are told that Rs. 5 lacs has been paid to the writ petitioners as per court's order. At the time of payment of final compensation, the said sum will be adjusted. We have not gone into the merits of the disputes between the parties as regards the ownership of the land in question. The Special land Acquisition Officer shall decide such question in accordance with law.

The appeal and the connected applications are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)