

19
08.03.2022
Ct. No.10
b.das

W.P.A. 17700 of 2021

(Via Video Conference)

Sadhan Kumar Mondal
Vs.
Union of India & Ors.

Mr. Biswarup Biswas
Mr. G. C. Samanta ...for the petitioner.

Mr. Ansar Mandal
Mr. Ayan Banerjee ...for the State.

Mr. Ramen Bose
Mr. Banibrata Dutta ..for the respondent No.10.

The grievance of the petitioner is that out of entire award determined in favour of the petitioner by the State respondents, 1/3rd portion amounting to Rs.25,96,187/- was wrongly paid to the private respondent No.11, who is illegally withholding the said amount.

In a reference made before the learned District Judge, Nadia by the Special Land Acquisition Officer, Naida, Government of West Bengal under Section 3(H) of the National Highways Act, 1956, it was decided by the learned Court by an order dated 11th March, 2020 that the petitioner is the recorded owner of the land in question and the structures standing thereon and entitled to get the entire compensation for acquisition of the same. The

Special Land Acquisition Officer, Nadia was directed to pay the compensation to the present petitioner in its entirety.

Learned counsel for the petitioner submits that such compensation has not been paid to the petitioner till date, in violation of the Court's order.

Placing reliance on a judgment passed by a Division Bench of this Court in Abani Bhusan Chatterjee & Ors. vs. The State of West Bengal & Ors. reported in 1975 2 Cal. LJ. 258, learned counsel submits that the compensation due to the petitioner should be paid to the petitioner by the State Government who should not relegate the petitioner to a suit to recover the said money. The State Government is at liberty to recover the amount in question in accordance with law.

Referring to the report in the form of affidavit submitted by the respondents, it is submitted on behalf of the State respondents that the respondents are trying their best to recover the amount disbursed to the private respondent No.11 and appropriate directions may be given so that the balance 1/3rd amount be recovered from the private respondent No.11 and be handed over to the petitioner.

Learned counsel for the State respondents has placed reliance on an order passed by a co-ordinate Bench of this Court on 8th December, 2021 in WPA 14637 of 2021 which deals with a similar issue. The Court held that the money in question would be refunded by the respondent

withholding the same illegally and be transferred to the account of the person entitled.

It is not in dispute that the petitioner is entitled to the entire compensation amount payable by the State respondents. 2/3rd of the amount is lying with the State respondents and the remaining 1/3rd has been paid to the private respondent No.11 wrongly. The private respondent No.11 illegally withheld the same.

None appears for the private respondent No.11 despite service of notice.

In the order passed by a co-ordinate Bench of this Court in WPA 14637 of 2021, the private respondent had admitted receipt of the amount in question and had undertaken to refund the same. The fact situation of the present case can be distinguished for the reason that the private respondent No.11 has not appeared in this matter to make any submission before the Court and it also cannot be said that the said respondent is ready and willing to refund the amount.

In view of the fact that the petitioner is entitled to receive the entire amount of compensation from the State respondents and has been waiting for a considerable period of time for grant of such compensation, there is no reason why the petitioner should be made to wait further for receipt of the entire amount of compensation for no fault on his part.

As observed by the Hon'ble Division Bench of this Court in the judgment in Abani Bhusan Chatterjee (supra), the Government is bound to deposit the amount of compensation awarded by the referral Court for distribution according to the award and is at liberty to recover the said amount from the person illegally withholding the same.

In view of the above, the writ petition is disposed of directing the State respondents to pay the entire compensation amount along with statutory interest thereon to the petitioner within two months from the date of communication of this order.

The State respondents are at liberty to recover the 1/3rd portion of the amount from the private respondent No.11, in accordance with law.

With the above observations and directions this writ petition being WPA 17700 of 2021 is disposed of.

However, there shall 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)