

7.
07-03-2022
debajyoti
(Ct. no.06)

MAT 1231 of 2021
with
IA NO:CAN/1/2021
Sri Birendra Nath Jana & Anr.
Vs.
Union of India & Ors.

Mr. Chittapriya Ghosh,
Mr. Goutam Acharya,
Ms. Komal Singh
... For the Appellants.

Ms. Susmita Saha Dutta
... For the Union of India.

Mr. Chandi Charan De, learned AGP,
Ms. Chandana Ghosh
... For the State.

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

This appeal is directed against an order dated August 17, 2021, whereby WPA 1555 of 2020 was dismissed.

The appellants approached the learned Single Judge challenging an order passed by the Competent Authority under Section 3C of the National Highways Act, 1956. The appellants contended that the Competent Authority did not adequately or at all consider the objection filed by the appellants in terms of Section 3C of the said Act.

The learned Judge, upon noticing that a final arbitral award has been passed in respect of the concerned acquisition proceedings, held that the writ petition is not maintainable. The learned Judge observed that the writ petitioners have an alternative

efficacious statutory remedy and could avail of the same.

We have heard learned counsel for the parties. We are told that the arbitral award was passed during the pendency of the writ petition assailing the order of the Competent Authority under Section 3C of the 1956 Act. Section 3C(3) of the 1956 Act makes an order made by the Competent Authority under sub-section (2) final. In other words, such order is not appealable before any forum. The only possible remedy of an aggrieved party would, therefore, be an application under Article 226 of the Constitution of India. The present appellants did file such a writ application.

Publication of an arbitral award during the pendency of the writ petition would not make the application infructuous. It is true that the arbitral award can be challenged by the writ petitioners/appellants before the appropriate forum. However, there is no other forum, excepting the Writ Court, for the appellants to challenge the order of the Competent Authority made under Section 3C(2) of the 1956 Act.

However, we have perused the written objection filed by the appellants before the Competent Authority as well as the order of the Competent Authority which was assailed before the learned Single Judge. From the written objection, we do not find that there is any good ground for challenging the acquisition proceeding. Indeed, it is well known that ordinarily, excepting the ground that the acquisition is not for public purpose, no other good ground for challenging an acquisition is available.

Having considered the facts and circumstances of the case and having heard learned counsel for the parties, we are of the view that no useful purpose will be served by remanding the matter to the learned Single Judge. We are not satisfied that the appellants have reasonably arguable grounds for assailing the order of the Competent Authority in question.

In view of the aforesaid, this appeal fails and is dismissed along with the connected application.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)