

M/L. 9.
December 5, 2022.
MNS.

WPA No. 18198 of 2022

Subhankar Mondal
Vs.
The State of West Bengal and others

Mr. Jyoti Prakash Chatterjee

... for the petitioner.

Mr. Sumit Ray

...for the WBSEDCL.

Learned counsel for the petitioner submits that the West Bengal State Electricity Distribution Company Limited (WBSEDCL) encroached upon a portion of the petitioner's land and installed their apparatus and equipment, for which the petitioner offered that the WBSEDCL may purchase the entire land since, for all practical purposes, the entire land has been rendered unusable by the petitioner.

Learned counsel also places reliance on a purported admission on the part of the WBSEDCL, where it was decided that the petitioner's offer for sale of the land would be considered and appropriate action taken in the matter.

Learned counsel places reliance on the annexures to the writ petition for substantiating such allegation. However, the WBSEDCL is now allegedly sitting tight over the matter.

Learned counsel appearing for the WBSEDCL submits that as long back as in the year 1965-1966, the lands-in-question, including the petitioner's plot, were acquired under the West Bengal Land (Requisition and Acquisition) Act, 1948 and due compensation was disbursed to the owners of the lands. However, it is rightly submitted by learned counsel that there remains a dispute as to whether the WBSEDCL has encroached any portion over and above the acquired property, thereby transgressing the petitioner's right, title and interest.

Since the petitioner does not admit that the petitioner received any compensation for the acquisition, the petitioner's remedy lay elsewhere and long before. The allegation that no compensation was received by the petitioner, made for the first time in the year 2014, for an acquisition made around 1965-1966, is hopelessly time-barred.

However, the petitioner is justified in claiming compensation in the event it is

established that the WBSEDCL has encroached any portion further than the acquired land, which belongs to the petitioner. It is beyond the scope of the writ court to decide such issue, which require consideration and appreciation of material facts.

Since the District Magistrate is the appropriate authority under the law for deciding such issue of adequacy of compensation and/or entitlement to compensation, WPA No. 18198 of 2022 is disposed of by granting liberty to the petitioner to refer the dispute to the District Magistrate, that is, the respondent no. 2, who will decide the issue of alleged entitlement of the petitioner to compensation, if any, in accordance with law.

If decided in the positive, the District Magistrate shall also decide the quantum of such compensation upon giving adequate opportunity of hearing to all concerned.

It is expected that the District Magistrate shall conclude such exercise as expeditiously as possible, positively within three months from the matter being referred to the District Magistrate by the petitioner.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)