

02.12.2022
rc/ct.no.10
Item No.25

WPA No. 18618 of 2022

Mr. Dyutiman Banerjee ...for the petitioner

Mr. Chandi Charan De
Mr. H. Maiti ...for the State

Heard learned counsels appearing on behalf of the parties.

The petitioner is aggrieved by the order passed by the Collector, South 24-Parganas on 26.10.2021 turning down the prayer of the petitioner for referring the matter under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act of 1894") before the Court of civil jurisdiction.

It is submitted on behalf of the petitioner that the land originally belonged to the grand-mother of the petitioner after whose demise the petitioner's mother stepped into her shoes. Though award was declared on 24.06.2011, the amount of compensation granted to the predecessor-in-interest of the petitioner was learnt by the predecessor when the awarded amount was credited to her bank account on 28.05.2019. The application under Section 18 of the Act of 1894 was filed by the petitioner on 14.06.2019, i.e. within the statutory period of time from the date of knowledge of the amount of compensation.

Per contra, it is submitted on behalf of the State-respondents that the prayer of the petitioner cannot be

acceded to since the predecessor of the petitioner had appeared before the competent authority during preparation of the award on 17.02.2011.

Section 18(2)(a) of the Act of 1894 clearly envisages that if the person making the application was present or represented before the Collector at the time when he made the award, the application should be filed within six weeks from the date of the Collector's award. In the case in hand, though the impugned order records that the application was filed beyond the statutory period of time, there is no reflection in the said order to the effect that notice under Section 12(2) of the Act of 1894 was served to the petitioner/his predecessor upon declaration of the amount of compensation. Though it appears that the predecessor of the petitioner was present before the authority during preparation of the award on 17.02.2011, the award was declared on 24.06.2011 and therefore it cannot be said that the awardee was present or represented when the award was made. Since no notice under Section 12(2) of the Act of 1894 was served upon the petitioner/his predecessor, it can be concluded that the petitioner had knowledge of the amount of compensation only upon the same being deposited in the bank account of his mother on 28.05.2019. Therefore the application under Section 18 of the Act of 1894 cannot be said to be filed beyond the statutory period of time.

Of course, a small error was correctly detected in the application which was addressed to the Land Acquisition Officer, South 24-Parganas instead of the Collector, South 24-Parganas. This is a minor technical error which can be ignored, more so, since such application has been dealt with by the Collector, South 24-Parganas.

In view of the above, this Court is inclined to hold that the matter be remanded back to the Collector, South 24-Parganas, being the respondent no. 2 herein, for reconsideration in the light of the observation made in this order.

Accordingly, the order passed by the 2nd respondent on 26.10.2021 is set aside.

The writ petition is disposed of directing the 2nd respondent to take necessary steps in terms of the application under Section 18 of the Act of 1894 and in the light of the observation made by this Court in this order.

Such exercise should be completed within a period of one month from the date of communication of this order.

With the above observations and directions this writ petition is disposed of.

There shall be, however, 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)