

12. 26.07.2022
Ct. No.6
Tanmoy

F.M.A. 307 of 2022

**Sri. Ardhendu Sekhar Rana
-Versus-
Union of India & Ors.**

**With
IA No: C.A.N. 1 of 2022**

Mr. Chittapriya Ghosh, Adv.,
Ms. Priyanka Saha, Adv.,
Ms. Komal Singh, Adv.

..for the appellant.

An order dated February 24, 2021, whereby W.P.A. 126 of 2021 was dismissed is under challenge in the present appeal.

The appellant says that his land was acquired under the National Highways Act, 1956 (hereinafter referred to as 'the 1956 Act') for construction of roads and bridges. He is aggrieved by the amount of compensation determined by the Competent Authority. He, through his learned Advocate, had made a representation to the appropriate Authority for enhancement of the compensation amount. Since such representation was not considered, he approached the learned Single Judge. The learned Single Judge observed that the course contemplated by Section 3G sub-section (5) of the 1956 Act is always open to the petitioner. The said provision of law is quoted below:-

“3G. Determination of amount payable as compensation. –

... (5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government. ...”

The learned Judge dismissed the writ petition as misconceived.

In spite of service, nobody appears for the State or the National Highways Authority. Although we are of the opinion that the learned Single Judge himself granted liberty to the writ petitioner/appellant to take recourse to Section 3G (5) of the 1956 Act, we clarify that the appellant/writ petitioner will be at liberty to take appropriate steps for invoking arbitration in terms of Section 3G (5) of the 1956 Act, in accordance with law.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being F.M.A. 307 of 2022 and the connected application being IA No: C.A.N. 1 of 2022 are disposed of.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)