

192. 25.07.2022
BD Ct.15

WPA 18523 of 2019

Sri Milan Kumar Bhuti & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Tulsidas Ray
... for the Petitioners.

Mr. Soumitra Bandopadhyay
Mr. Subhasis Bandopadhyay
... for the State

The present writ proceeding has been initiated based on letter dated 31st October, 2018 issued by the Additional District Magistrate (LR) & District Land and Land Reforms Officer, Malda, addressed to the Block Land and Land Reforms Officer, Gazole, Malda, for recording acquisitioned land of the petitioners in favour of Irrigation & Waterways Department, Government of West Bengal.

Mr. Tulsidas Roy, learned advocate, representing the three petitioners being sons of late Kanaklata Dasi has submitted that the land in question was possessed and enjoyed by the petitioners till issuance of such Memo dated 31st October, 2018 for recording the land of the petitioners in favour of Irrigation & Waterways Department, Government of West Bengal. It is the

contention on behalf of the petitioners that based on notice under section 3(1) of the West Bengal Land (Requisition and Acquisition) Act, 1948 (hereinafter referred to as the “said Act of 1948”) a proceeding might have been initiated for requisitioning the land of the mother of the petitioners but such proceeding was not concluded and no compensation/award was paid in favour of the mother of the petitioners at the material point of time. Upon presenting this writ petition it has been prayed by the petitioners for setting aside acquisition of land measuring 2.57 acres in RS Dag no. 16, LR Dag No. 36, Mouza- Rangavita in Malda.

Mr. Soumitra Bandopadhyay, learned advocate, representing the State respondents has opposed such prayer of the petitioners based on the averments made in the affidavit-in-opposition to the writ petition. Upon placing reliance on the relevant part of the affidavit-in-opposition it has been submitted that the land of the mother of the petitioners was acquired in connection with the LA Case No.28 of 1976-77 for construction of stack yard in connection with Tista Barrage Project and the possession was handed over to the requiring body on 21st August, 1976. Based on such steps taken by the authorities calculation sheet was

prepared in connection with the said L.A. Case by the Land Acquisition Department for payment of compensation/award to the mother of the petitioners namely Late Kanaklata Dasi. Ultimately, it has also been submitted on 23rd August, 1984 award money was paid to the mother of the petitioners to the tune of Rs. 72,29,761/- for acquiring the land of the petitioner's mother and in support of the same a document has been annexed to the said affidavit-in-opposition being annexure R-3. It has also been submitted that 100% payment of compensation has been made as per the relevant provision of the said Act of 1948. Subsequently based on letter dated 31st October, 2018 issued by the Additional District Magistrate (LR) & District Land and Land Reforms Officer, Malda, addressed to the Block Land and Land Reforms Officer, Gazole, Malda, relating to recording the name of Irrigation & Waterways Department, Government of West Bengal, in the record of rights based on the acquisition proceeding initiated by issuing notice under section 3(1) in the year 1976 petitioners cannot have any right to agitate the issue afresh as it has been done in the present writ petition.

This Court has heard the learned advocates representing the parties to this writ petition and

perused the relevant materials available on record. It appears that one notice under section 3(1) under the said Act of 1948 was issued in connection with LA Case No. 28 of 1976-77 for acquiring the land of the mother of the petitioners. Upon placing reliance on particular document which is annexure R-3 to the affidavit-in-opposition used on behalf of the State respondents it has been contended that award money to the tune of Rs. 72,99,761/- was paid to the mother of the petitioners on 23rd August, 1984 and prior to that the possession of the land was handed over to the requiring body that is Sub-Assistant Engineer Irrigation and Waterways Department, Government of West Bengal, on 21st August, 1976. Since the entire proceeding under the relevant provision of the said Act of 1948 was complete by handing over possession of land on 21st August, 1976 and subsequently award money was paid to the petitioners on 23rd August, 1984 this Court posed query to the learned advocate representing the petitioners as to why the writ petition was filed on 18th September, 2019. This Court does not receive any satisfactory answer on the delay made by the petitioners in approaching the Court for quashing the acquisition proceeding which has been initiated

by the concerned respondent authorities in terms of the said Act of 1948.

From the facts of the case it appears that the requisition proceeding was initiated against the mother of the petitioners by issuing notice under section 3(1) of the said Act on 12th August, 1976 and petitioner's mother died on 9th October, 2000. Therefore it appears after initiation of the proceeding of acquisition by the State respondents mother of the petitioners being the owner of the land in question was alive for 24 years but she did not raise any demur to the steps taken by the authorities in order to conclude such proceeding upon payment of award as well as handing over possession to the requiring body. As per appreciation of this Court it is the mother of the petitioners who was the interested person in such acquisition proceeding who could have raised the issue which has been belatedly raised by the petitioners being the sons of late Kanaklata Dasi.

Since the mother of the petitioners found that it is not required to initiate legal proceeding against such acquisition proceeding initiated by the respondents which goes long way to show that the authorities concluded the proceeding upon payment of award money to the mother of the

petitioners.

On analysis of the relevant facts it appears that petitioners have tried to take advantage of the letter dated 31st October, 2018 issued by the Additional District Magistrate (LR) & District Land and Land Reforms Officer, Malda, addressed to the Block Land and Land Reforms Officer, Gazole, Malda, relating to recording name of Irrigation and Waterways Department, Government of West Bengal, in the record of rights in connection with the land in question. Such issuance of letter dated 31st October, 2018 cannot confer any right upon the petitioners to raise the issue of acquisition qua non-payment of compensation to the mother of the petitioners after 42 years of initiation of proceedings on issuing notice under section 3(1) of the said Act of 1948 on 12th August, 1976. On the point of delay made by the petitioners in approaching court reliance has been placed on the judgement of the Apex Court reported in **(2007) 9 SCC 278 (New Delhi Municipal Council –vs- Pan Singh & Ors.)** paragraphs 17 and 18. In **Pan Singh** (supra) the Apex Court has succinctly decided upon placing reliance on another judgement of the Apex Court reported in (2007) 9 SCC 274 (Shiv Dass –vs- Union of India & Ors.)

that reasonable time for approaching the Court with the writ petition is three years.

In view of aforesaid discussion this Court does not find any merit in the writ petition and the same stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)