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05.04.2022
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W.P.A. 26737 of 2017
(Shib Shankar Laik & Ors. vs. State of West Bengal & Ors.)

Mr. Apurba Ghosh
.... For the Petitioners
Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal
.... For the State
Mr. Dipankar Das
.... For the NHAI

Report submitted by the State respondents is taken on record. The admitted position is hereunder:

The plot owned and occupied by the petitioners was utilised by the Public Works Department and thereafter handed over to the National Highways Authority of India without acquisition of the same. The said land lies within the L.A. plan/alignment of NH-2. No compensation for the same has been granted to the petitioners in view of the fact that the land has not been acquired.

Learned counsel for the State respondents places reliance on a notification being Memo No. JS-

152/LA/9R-17/22 dated 16th February, 2022 which demonstrates that “if detailed Survey reveals part/full utilization of the land by the Requiring Body, then compensation may be paid from the Date of Possession by the RB, that is, the Date of Dispossession of the Private Party, over the actual quantum of land utilized. Keeping in view the Order passed by the Larger Bench of Hon’ble Supreme Court in INDORE DEVELOPMENT AUTHORITY VS MANOHARLAL DAS & ORS dated 06.03.2020 and Departmental Order conveyed vide Memo No. 1153-LA/3M-49/14 dated 20.04.2015 *mutatis mutandis*, payment of compensation may be considered with 100% Solatium over Market Value prevailing at the time of Dispossession of the Private Party alongwith 12% Interest p.a. till the Date of Payment.”

The petitioners seek liberty to submit a comprehensive representation before the concerned Authority in this regard and prays for direction upon the Authority to consider the representation at the earliest.

Upon consideration of the submissions made on behalf of the parties, the writ petition is disposed of with liberty to the petitioners to submit a comprehensive representation before the 5th respondent within 7 days from date. The 5th respondent is directed to consider

and dispose of the representation submitted by the petitioners within two months from the date of receipt thereof, after affording reasonable opportunity of hearing to all the interested parties including the petitioners, in accordance with law. In dealing with the representation, the 5th respondent shall take into account the notification of the Government of West Bengal vide Memo No. JS-152/LA/9R-17/22 dated 16th February, 2022. The decision taken by the 5th respondent shall be communicated to the petitioners within a week thereof.

With the aforesaid directions, W.P.A. 26737 of 2017 is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)