

31.03.2022
rc/ct.no.10
Item No.11

WPA No. 26878 of 2015
Sankha Bhangan Saha
Versus
The State of West Bengal & Ors.

Mr. Partha Pratim Roy ...for the petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

Affidavit of service filed in Court today be taken on record.

The contention of the petitioner is that he is the co-owner of the plot of the land in question which was requisitioned by the respondent authorities for the purpose of providing drinking water facility in Beldanga and surrounding mouzas. Pursuant to notice under Section 3(1) of the West Bengal Land (Requisition and Acquisition) Act, 1948 (hereinafter referred to as "Act of 1948"), the respondent authorities took possession of the land on February 12, 1975 and has been utilising the same for the purpose stated. Despite application being made to the respondents for payment of rent and damages in 1977, no such payment was made and subsequently notice under Section 4 of the Act of 1948 was issued on November 12, 1980. The award was not declared by the authority for which the petitioner filed a

title suit being T.S.No. 51 of 1989 before the Civil Court which was allowed on contest declaring entitlement of the petitioner to get compensation with regard to the property in question and also directing the Collector, Murshidabad to pass necessary award in favour of the petitioner in terms of Section 7 of the Act of 1948. The Collector was further directed to pay the amount of compensation within six months from the date of judgment. The judgment was carried in appeal by the State authorities which was dismissed on contest by judgment dated April 24, 2012.

In the meantime, the Act of 1948 lapsed with effect from March 31, 1997 and by way of the Land Acquisition (West Bengal Amendment) Act, 1997 which came into force on April 01, 1997, Section 9(3A) and 9(3B) was incorporated in the Land Acquisition Act, 1894 (hereinafter referred to as “Act of 1894”) which mandates service of notice to persons interested in the land in question. No such notice was served on the petitioner and award was not declared within the statutory period of time in terms of Section 11A of the Act of 1894. The petitioner prays for issuance of writ of mandamus directing the respondent authorities to return the land to him or pay compensation for the same in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “Act of 2013”).

Placing reliance on the report submitted by the Special Land Acquisition Officer, Murshidabad, learned counsel appearing on behalf of the State-respondents submits that no execution case was filed by the petitioner against the judgment of the Civil Court and it was only after the Act of 1948 lapsed that the petitioner came up before this Court for necessary redressal.

It is not in dispute that the plot in question belonging to the petitioner was requisitioned by the State-respondents and utilised in 1975. Admittedly no award has been declared in respect of the same. The Act of 1948 has lapsed in the meantime.

In view of the fact that the petitioner being co-owner of the property in question is entitled to compensation to the extent of his share in the property, the State-respondents should either pay compensation to the petitioner according the present market rate of the property or initiate a proposal for direct purchase of the property from the petitioner at the present market rate subject to the petitioner substantiating his claim thereto.

Accordingly the writ petition is disposed of directing the State-respondents to initiate a proposal for direct purchase of the property from the petitioner within one month from the date of communication of the order and complete the entire exercise within three months thereafter subject to the petitioner placing relevant records before the respondents to substantiate his claim

as a co-sharer of the property. In the alternative, the respondents should initiate acquisition proceedings under the Act of 2013 and declare the award in favour of the petitioner in terms of the said Act.

With the above observations and directions this writ petition being WPA No. 26878 of 2015 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)