

WPA 28981 of 2017

Dipak Kumar Roy
Vs.
The Union of India & Ors.

Mr. Arindam Das,
Ms. Rumeli Sarkar,

...for the petitioner.

Mr. Dipankar Das,

...for the NHAI.

Mr. Anirban Ray, Ld. G.P.,
Md. T. M. Siddiqui,
Mr. Nilotpall Chatterjee,

...for the State.

The primary grievance of the petitioner is with regard to the award declared by the State respondents in lieu of acquisition of the plots of land of which they claim to be recorded owners. It is submitted on behalf of the petitioner that a copy of the award was not served upon the petitioner by the authority and it was only during pendency of the writ petition that the petitioner received a copy of such award which was passed on 3rd July, 2015. Relying on the Manual of Land Acquisition for National Highways under the National Highways Act, 1956 it is submitted that in terms of clause 2.5 (iii) of the said Manual, in cases of land acquisition where awards have not been announced under Section 3(G) of the Act of 1956 till 31st December, 2014 or where such awards have been announced but compensation have not been paid to majority of the land holders, the compensation would be payable in accordance with the 1st schedule of

the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is further submitted that the petitioner was unable to take recourse under Section 3(G)(5) of the Act of 1956 in absence of a copy of the award.

Per contra, it is submitted on behalf of the respondents that the Manual under the National Highways Act, 1956 came into effect from December, 2018 whereas the award was declared on 3rd July, 2015. Further, Section 105 of the Act of 2013 excluded the application of this Act to acquisition proceedings under the Act of 1956. By a notification issued on 28th August, 2015, the 2013 Act was made applicable to cases of land acquisition under the 1956 Act.

Learned counsel for the respondents submits that as the award in this case was declared prior to the said dates, the Act of 2013 is not applicable herein and the petitioner is not entitled to get compensation in terms of the 2013 Act.

It is submitted on behalf of the National Highways Authority of India that the petitioner has already received the compensation awarded under Section 3(G)(1) of the Act of 1956, the said fact not being disputed by the petitioner.

Upon consideration of the submission made on behalf of the parties, this Court is of the view that upon receipt of a copy of an award by the petitioner in course

of hearing of the present writ petition, the petitioner is at liberty to approach the 6th respondent under Section 3(G) (5) of the National Highways Act, 1956 within a fortnight from date. The District Magistrate, Nadia and Arbitrator, being the 6th respondent herein, is directed to consider and dispose of the application filed by the petitioner after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law, within six months from the date of receipt of the application.

It is made clear that this Court has not gone into the merit of the case and the petitioner shall be at liberty to place his contention before the learned Arbitrator at the time of hearing.

With the above observations and directions, WPA 28981 of 2017 is disposed of. There shall however, be 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.)