

Item No. 5

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIRCUIT BENCH AT JALPAIGURI

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

HEARD ON: 11.07.2022

DELIVERED ON: 11.07.2022

CORAM:

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

WPA 720 of 2022

Sushila Roy.

VERSUS

Union of India & Ors.

Appearance:-

Mr. Arindam Das,

Mr. Niladri Sekhar Sen

.....for the Petitioner

Mr. Hirak Barman,

Mr. Pretom Das

.. for the State.

Ms. Supriya Singh

.... for the N.H.A.I.

Mr. Ajoy Kumar singhania,

Mr. Sourab Kar

.... For Union of India.

JUDGMENT

(Judgment of the Court was delivered by HIRANMAY BHATTACHARYYA, J.)

1. Affidavit-in-opposition filed by the respondent nos.2, 3 and 4 is taken on record.

2. As prayed for by the learned Advocate for the petitioner and not opposed by Mr. Ghosh, learned Advocates for the respondents, leave is granted to the learned Advocate-on-record for the petitioner to amend the cause title of the writ

petition insofar as the designation of the respondent no.9 is concerned.

3. The land of the petitioner situated in Mouza - Chengpara-53, Block - Alipurduar, Police Station and District - Alipurduar is claimed to have been acquired by the authorities of the National Highways. The grievance of the petitioner is that the petitioner being dissatisfied with the amount determined by the competent authority on account of compensation for acquisition of the land of the petitioner, approached various authorities praying for enhancement of compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "2013 Act") and the concerned authorities are sitting tight over the representation of the petitioner.

4. The learned Advocate for the petitioner submits that the petitioner's property had been taken away by way of acquisition and the petitioner is yet to receive compensation in accordance with the provisions of the 2013 Act.

5. Mr. Ghosh, learned Advocate representing the State and the respondent no.6 as well as the Special Land Acquisition Officer being the Arbitrator under the National Highways Act,

1956 (for short "the 1956 Act") submits that the amount payable to the petitioner on account of acquisition of the land-in-question has been determined by the competent authority and such amount has already been paid. Mr. Ghosh submits that the petitioner has to now approach the Arbitrator under the 1956 Act if he is not satisfied with the compensation determined by the competent authority under Section 3G(1) of the 1956 Act.

6. The National Highways Authority of India and the Union of India are also represented.

7. Heard the learned Advocates for the parties and perused the materials placed.

8. On a query of the Court, Mr. Ghosh, in his usual fairness, submits that though the amount determined by the competent authority has been paid to the petitioner but no copy of an order of the competent authority containing the basis of determination has been supplied to the petitioner.

9. Unless the basis of determination of compensation which forms the basis of the order of the competent authority is made known to the petitioner, it is not possible for the petitioner to challenge such determination before the Arbitrator under Section 3G (5) of the 1956 Act.

10. Since there is no dispute that the property of the petitioner has been acquired and an amount determined by the competent authority has also been paid in the meantime, this Court is of the considered view that the interest of justice would be subserved if the competent authority being the Special Land Acquisition Officer, Jalpaiguri being the respondent no.9 herein is directed to serve a copy of the order passed by him as indicated hereinbefore within a specific time limit and an opportunity is granted to the petitioner to approach the Arbitrator under Section 3G(5) of the 1956 Act in case he is aggrieved by the order passed by the competent authority.

11. The Special Land Acquisition Officer, Jalpaiguri being the respondent no.9 is directed to serve a copy of the order determining the compensation under Section 3G(1) of the 1956 Act to the petitioner as well as to his Learned Advocate within a period of one week from date. Upon receipt of copy of the order of the competent authority passed under Section 3G(1) of the 1956 Act, the petitioner will be at liberty to take appropriate steps by making an application before the Arbitrator in accordance with Section 3G(5) of the 1956 Act.

12. Mr. Das, learned Advocate appearing for the petitioner submits that a direction may also be passed upon the Arbitrator to take a decision within a specified time if an approach is made by the petitioner.

13. There is no basis of such apprehension as the petitioner has not yet applied before the Arbitrator. However, this Court expresses hope and trust that if an approach is made by the petitioner to the Arbitrator under the 1956 Act, such authority shall decide the application, if any, filed under Section 3G(5) of the 1956 Act as expeditiously as possible and within a period of six months from the date of filing such application.

14. WPA 720 of 2022 stands disposed of with the above directions.

15. There shall be no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)

Naren, AR(Ct.)