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28-02-2023
debajyoti
(Ct. no.06)

FMA 287 of 2022
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IA NO:CAN/1/2022
+
CAN/2/2023

Sri Ajit Kumar Yadav @ Ajit Yadav
Vs.
The Union of India & Ors.

Mr. Shamik Chatterjee,
Mr. Aditya Bikram Mahata,
Mr. Sahil Kabir

... For the Appellant.

Mr. Rahul Sarkar,
Ms. Dipika Sarkar

... For Respondent nos.1-3.

Ms. Manika Roy,
Mr. S. A. Munshi

... For NHAI.

Mr. Susovan Sengupta,
Mr. Subir Pal

... For the State.

By consent of the parties, the appeal and the applications are taken up together for hearing.

A judgment and order dated December 13, 2021, whereby the appellant's writ petition was disposed of with certain observations and directions, is the subject matter of challenge in this appeal.

The appellant/writ petitioner says that his property was acquired for expansion of National Highway 60. However, he has not yet received compensation. He is homeless and in acute financial difficulty.

With the aforesaid grievance, the appellant approached the learned Single Judge by filing WPA 14649 of 2021. He submitted that he has received a

copy of a notice issued by the Competent Authority on August 10, 2021, which indicates that due to a dispute with regard to disbursement of compensation in his favour, the compensation amount has been deposited in the Court of the learned District Judge, Paschim Bardhaman in accordance with the provisions of 3H(4) of the National Highways Act, 1956. He further submitted that he has made a representation dated September 10, 2021, before the Competent Authority, but the same has not been disposed of.

On behalf of the State, it was submitted that the compensation amount has already been deposited with the District Judge, Paschim Bardhaman and thereupon, the Competent Authority has become *functus officio*.

The learned Judge disposed of the writ petition by granting liberty to the writ petitioner to approach the learned District Judge, Paschim Bardhaman, and observing that the matter cannot be dealt with in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

Being aggrieved, the writ petitioner is before us by way of this appeal.

It is submitted that time and again the appellant/writ petitioner approached the District Court, Paschim Bardhaman. Each time, he was unsuccessful in getting a hearing, since, either he was told that the Presiding Officer is not available, or some other reason was advanced. He further says that he tried to file an appropriate application before the learned District Judge. However, the department did not accept such application.

Be that as it may, we request the learned District Judge, Paschim Bardhaman, to take on board the application that the appellant herein desires to file, presumably for disbursement of compensation in his favour. We further request the learned District Judge, Paschim Bardhaman, to dispose of such application and if after making due enquiry, the learned District Judge is satisfied with the entitlement of the appellant herein to receive the compensation amount, then to disburse such amount without any further delay.

The appellant is claiming interest on the compensation amount. He may raise such claim before the learned District Judge, who will decide the issue in accordance with law. The appellant will be at liberty to produce such documents, as he may be advised, before the learned District Judge to establish his entitlement to receive the compensation amount.

With the aforesaid observations, the appeal and the connected applications are disposed of.

Affidavits not having been called for, the allegations in the stay application shall be deemed not to have been admitted by the respondents.

Copy of the report of the Competent Authority dated February 16, 2023 filed by Mr. Sengupta on behalf of the State, be kept with the records.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)