

June 23, 2023
ARDR
(6)

WPA 2698 of 2023

Tapas Roy & ors.
Vs.
The State of West Bengal & Ors.

Adv. Robiul Islam,
Adv. Raju Mondal,

...for the petitioners.

Adv. Chandi Charan De,
Adv. Anirban Sarkar,

...for the State.

Heard learned counsels for the parties.

Admittedly the land of the petitioners has been utilised by the Public Health Engineering Department though the land has not been acquired.

Learned counsel for the petitioners submits that the petitioners are not agreeable to sell out the land in favour of the Government and the land ought to be acquired in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013').

Learned counsel for the respondents submitted on the earlier occasion that since Rules under the Act of 2013 have not been framed as yet, no step can be taken for acquisition of the land in question under the said Act.

Learned counsel for the petitioners places reliance on a judgment of the Hon'ble Division Bench of this Court in MAT 607 of 2022 passed on 22nd December, 2022, wherein the Hon'ble Division Bench observed that

since the acquisition proceeding under the Land Acquisition Act, 1894 lapsed and the State was not in a position to return the land to the owner since the same was already utilised, the State was directed to start fresh acquisition proceedings under the Act of 2013 and determine the compensation in terms of the said Act.

In view of the above, this Court is inclined to hold that since in the present case also, the land in question has been utilised without acquisition and the petitioners are not agreeable to sell out the land in favour of the Government, there is no other alternative but to acquire the said land in terms of the Act of 2013.

Accordingly, the writ petition, being WPA 2698 of 2023 is disposed of directing the 8th respondent to initiate proposal for acquisition of the land in question to the 5th respondent within two weeks from date. The 5th respondent is directed to initiate proceeding for acquisition under the Act of 2013 and conclude the proceeding including payment of compensation to the petitioners within two months thereafter.

There shall however, be no order as to costs.

Since no affidavit in opposition 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 on usual undertakings.

(Suvra Ghosh, J.)