

WPA 3369 of 2017

Asim Rana & Ors.
Vs.
State of West Bengal & Ors.

Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee

...for the petitioners.

Mr. Dipankar Das

...for NHAI.

None appears for the State respondents.

Heard learned counsels for the parties.

The notice issued by the competent authority (LA) under the National Highways Act, 1956 and Additional District Magistrate (LA), Nadia on 25th October, 2016 is assailed in the writ petition.

It is contended on behalf of the petitioners that the petitioners received notice of compensation under Section 3H(2) of the National Highways Act, 1956 and submitted an objection to the said notices requesting arbitration.

Since the said objection was not considered, the learned counsel approached this Court for a direction upon the arbitrator to consider the same.

By an order passed on 30th October, 2014 in WP 7508 (W) of 2014, a co-ordinate Bench of this Court directed the competent authority to dispose of the arbitral

reference for enhancement of compensation within a stipulated time frame.

In reply to such direction, the notice impugned was issued to the petitioners stating arbitration in connection with the concerned mouza, being Mouza – Debogram, was completed on 20th August, 2013. It is not in dispute that no notice of arbitration was issued upon the petitioners and the petitioners' objection was not taken into consideration by the learned arbitrator in dealing with the arbitral proceeding in 2013.

Since the petitioners were not given an opportunity of hearing before the arbitrator, nor the objection was taken into consideration, the petitioners are not bound by the arbitral award passed by the learned arbitrator in the said proceedings.

The objection filed by the petitioners still remaining pending, the notice impugned dated 25th October, 2016 is set aside.

In view of the above, the writ petition is disposed of directing the 2nd respondent to dispose of the objection/arbitral reference made by the petitioners within a period of two months from the date of communication of this order upon giving reasonable opportunity of hearing to all the interested persons including the petitioners, in accordance with law.

It is needless to mention that the decision taken by the authority shall be communicated to the petitioners within a week thereof.

Since the State respondents are not represented today, a copy of this order be communicated to the State respondents by the petitioners at the earliest.

With the above observations and directions this writ petition being WPA 3369 of 2017 is disposed of.

However, there shall 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)