

06
17.11.2023
Ct. No.10
b.das

WPA 3873 of 2023

Smt. Manika Maity @ Manika Rani Maity & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Partha Pratim Roy
Mr. D. Banerjee ...for the petitioners.

Mr. Santanu Kr. Mitra
Mr. Amartya Pal ...for the State.

Heard learned counsels for the parties.

It is contended on behalf of the petitioners that the petitioners are owners of the land in question being RS plot nos.2934, 2935, 2936, 2937 and 2926/4020 in Mouza Debnagar, J.L. No.052, P.S. Namkhana presently Fresergunj (Coastal), South 24 Parganas.

The State respondents initiated an acquisition proceeding being LA-4/31 of 2001-02 under the Land Acquisition Act, 1894 in respect of the said plots for the purpose of construction of embankment sometime in 1999 and possession of the plots was taken over, though no notice of acquisition was served upon the petitioners nor any award was declared during the lifetime of the Act.

The petitioners have prayed for direction upon the authority to either return the land in their favour or acquire the same under the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Placing reliance on the report in the form of affidavit submitted by the 6th respondent, learned counsel for the respondents has submitted that the land of the petitioners has been utilized by the Government in the month of May, 2009 for construction of a portion of the embankment at Debnagar on river Chenergang which was severely damaged.

According to the respondents, such restoration work was taken up behind the existing forward embankment with the consent of the land owner. A joint field verification was held on 2nd August, 2023 and the verification report indicates that plot nos.2934 and 2926/4020 are submerged in the riverbed and, therefore, unutilized.

It is not in dispute that the plots in question belonging to the petitioners have been utilized by the State Government without acquiring the same by due process of law, far less paying any compensation to the petitioners.

Learned counsel for the State respondents has tried to impress upon the Court that plot nos.2934 and 2926/4020 are submerged in the river and were not utilized. The plots in question including these two plots were taken possession of by the State respondents in 2009. A joint field verification was held in 2023 which shows that the two plots were submerged in the river.

However, at the time of taking over possession of the plots/utilization of the same, the said two plots were in existence along with the other plots and may have submerged in water subsequently. Therefore the petitioners are entitled to get compensation for all the plots as referred to above including the plot nos.2934 and 2926/4020.

Learned counsel for the State respondents submits that the Government is agreeable to direct purchase of the plots in question from the petitioners.

The petitioners do not agree to such proposal.

Since the plots owned by the petitioners have been utilized by the State respondents without acquiring the same by due process of law, the Collector, South 24 Parganas, being the 2nd respondent herein is directed to initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within two months from the date of communication of this order and take the proceeding to its logical conclusion within three months thereafter upon affording reasonable opportunity of hearing to all concerned including the petitioners, in accordance with law.

With the above observations and directions the writ petition being WPA 3873 of 2023 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.)