

02.01.2023
jb.

W.P.A. 4429 of 2022
Sri Ranjit Kumar Malick @ Ranjit Malick & Ors.
Vs.
State of West Bengal & Ors.

Mr. Tapan Kr. Rakshit
Mr. Surajit Roy
.... For the Petitioners
Mr. Chandi Charan De
Mr. Soumitra Bandyopadhyay
Mr. Anirban Sarkar
.... For the State

Affidavit of service filed on behalf of the petitioners and status report submitted on behalf of the State respondents are taken on record.

Heard learned counsels for the parties.

The writ petitioners have assailed the order passed by the Special Land Acquisition Officer and Land Acquisition Collector (General) Howrah on 20th January, 2021 rejecting the application filed by the petitioners under Section 28 A of the Land Acquisition Act, 1894. By the order impugned the concerned authority has rejected the prayer of the petitioners on the ground of pendency of an appeal bearing No. F.A. 104 of 2005 preferred by the requiring body before the Hon'ble Division Bench of this Court.

It is not in dispute that an appeal preferred by other persons similarly circumstanced with the petitioners is pending before the Hon'ble Division Bench of this Court and the concerned authority has admitted in the order impugned that the authority was not in a position to consider the application under Section 28 A of the Act of 1894 submitted by the petitioners due to pendency of the said appeal.

In view of the above this Court is inclined to hold that since the appeal preferred by similarly circumstanced persons as the petitioners is pending before the Hon'ble Division Bench of this Court against the order passed by the Land Acquisition Tribunal, Howrah, the order impugned rejecting the application of the petitioners is required to be set aside and the application should remain pending till the disposal of the appeal by the Hon'ble Division Bench.

Accordingly, the order passed by the Special Land Acquisition Officer and Land Acquisition Collector (General) Howrah on 20th January, 2021 is set aside.

The application filed by the petitioners under Section 28 A of the Act of 1894 be kept pending by the concerned authority till the disposal of the appeal by the Hon'ble Division Bench.

Upon the appeal being disposed of, the authority shall be at liberty to consider the application under Section 28A of the Act filed by the petitioners and dispose of the same, in accordance with law.

With the aforesaid observations and directions, the writ petition is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)