

16
29.09.2023
Ct. No.10
b.das

WPA 6838 of 2023

Md. Imdadul Mondal & Anr.
Vs.
The State of West Bengal & Ors.

Md. Sarwar Jahan
Mr. Asharf Mondal
Mr. M. I. Kayal
Mr. S. Naskar
Mr. S. N. Thander ...for the petitioner.

Mr. Chandi Charan De
Mr. Sirsanya Bandyopadhyay
Mr. A. K. Nag
Mr. Anirban Sarkar ...for the State.

Further instruction submitted on behalf of the respondents is taken on record.

Heard learned counsels for the parties.

The order passed by the Principal Secretary, PHE department, Government of West Bengal on 10th January, 2023 is assailed in the writ petition.

It is not in dispute that the PHE department has utilized the land of the petitioners by installing a pump house therein.

Admittedly the land has neither been acquired nor purchased by the respondents. The petitioners have no objection if the land is either acquired by the respondents in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013 or directly purchased by the authorities at the present market rate.

It is submitted on behalf of the State respondents that the petitioners' father consented to utilization of the land by the PHE department for construction of a pump house therein and accordingly, the land has been utilized.

The said fact is not disputed. Even if it is held that the land was utilized on consent of the predecessor-in-interest of the petitioners, the land ought to have been acquired or purchased by the respondents, in accordance with law.

In view of the above, this Court is inclined to hold that since the land in question has been utilized by the respondents without acquiring the same, the land may either be acquired by the respondents in terms of the Act of 2013 or directly purchased by them at the present market rate of the property.

The order impugned dated 10th January, 2023 is set aside/quashed.

The writ petition is disposed of directing the 1st respondent to initiate acquisition proceedings under the Act of 2013 and conclude the proceedings including the payment of compensation to the petitioners within three months from the date of communication of this order upon affording reasonable opportunity of hearing to all concerned including the petitioners, in accordance with law.

In the alternative, the 1st respondent shall initiate proceedings for direct purchase of the land in question from the petitioners at the present market value of the land and complete such proceedings within three months from the date of communication of this order upon hearing all concerned, including the petitioners.

The decision taken by the authority shall be communicated to the petitioners within a week thereof.

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.)