

21
18.07.2023
Ct. No.10
b.das

WPA 7722 of 2021

Santosh Kumar Saha & Ors.

Vs.

The State of W.B. & Ors.

Mr. Partha Pratim Roy
Ms. P. Chakraborty ...for the petitioners.

Ms. Manika Roy
Mr. Soumalya Chakraborty ...for NHAI.

Supplementary affidavit submitted on behalf of the petitioners is taken on record.

None appears for the State respondents. No accommodation is sought.

Heard learned counsels for the petitioners and the National Highways Authority of India.

Learned counsel for the petitioners submits that being aggrieved by the award declared in favour of the petitioners under Section 3G(1) of the National Highways Act, 1956, the petitioners submitted an application under Section 3G(5) of the Act of 1956 before the learned Arbitrator which was dealt with and disposed of by the learned Arbitrator by enhancing the compensation payable to the petitioners, by an order passed on 18th January, 2016, which was subsequently modified on 30th June, 2016.

Subsequently, a notification was issued by the Ministry of Road Transport and Highways, Government of

India on 28th December, 2017 and clause 4.6 (iii) (c) of the notification records that in case of land acquisition where award has not been announced under Section 3G of the Act of 1956 till 31st December, 2014 or where such award had been announced but compensation not paid in respect of majority of the land holdings under acquisition as on 31st December, 2014, the compensation would be payable in accordance with the 1st Schedule of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

In view of such notification, the petitioners seek to submit a representation before the concerned authority claiming compensation in terms of the notification under the Act of 2013 and pray for a direction upon the authority to consider the representation at the earliest.

It is a fact that the petitioners participated in the arbitral proceedings and were granted enhanced compensation by the learned Arbitrator.

The petitioners do not seek to challenge the arbitral award and claim statutory relief in terms of the notification as well as the Act of 2013.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since notification dated 28th December, 2017 was issued subsequent to the arbitral award, the petitioners are entitled to the statutory reliefs granted by the notification under the Act of 2013.

In view of the above, the writ petition is disposed of with liberty to the petitioners to submit a comprehensive representation before the 2nd respondent within 15 days from date. The 2nd respondent is directed to consider and dispose of the representation within two months from the date of receipt thereof upon affording reasonable opportunity of hearing to all the interested persons including the petitioners, in accordance with law.

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

In the event the representation is decided in favour of the petitioners, the concerned authority is directed to take necessary consequential steps thereto within a month thereafter.

With the above observations and directions the writ petition being WPA 7722 of 2021 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.)