

25
23.06.2023
Ct. No.10
b.das

W.P.A. 7552 of 2017

Seikh Imam
Vs.
Union of India & Ors.

Mr. Arindam Das
Ms. Priyanka Kundu ...for the petitioner.

Mr. L. M. Mahata
Mr. Gangabandu Roy ...for the State.

Mr. Dipankar Das ...for NHAI.

Heard learned counsels for the parties.

On prayer of the petitioner liberty is granted to implead the Divisional Commissioner, Malda, learned arbitrator as respondent No.8 in the writ petition. The cause title of the writ petition be amended accordingly.

The grievance of the petitioner is that his land was acquired by the State respondents at the instance of the National Highways Authority of India and the compensation received by the petitioner is neither fair nor adequate for the reason that it was disbursed in favour of the petitioner after coming into effect of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioner claims compensation under the said Act.

Learned counsel for the petitioner submits that a copy of the award under Section 3G(1) of the National Highways Act, 1956 has not been served upon him. The

petitioner seeks liberty to submit an application under Section 3G(5) of the Act of 1956 before the learned arbitrator requesting enhancement of compensation upon receipt of the copy of award under Section 3G(1) of the Act.

Learned counsel for the State respondents undertakes to makeover a copy of the award under Section 3G(1) of the Act to the petitioner within two weeks from date.

Learned counsel for the National Highways Authority of India submits that the entire amount of compensation was deposited by the concerned authority before the State respondents prior to January 1, 2015 and as such, the petitioner is not entitled to compensation under the Act of 2013.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since the petitioner intends to file an application under Section 3G(5) of the Act of 1956 before the learned Arbitrator the concerned authority be directed to consider the said application, in accordance with law.

The writ petition is accordingly disposed of with liberty to the petitioner to file an application under Section 3G(5) of the Act of 1956 before the learned arbitrator, being the 8th respondent herein, within one month from the date of receipt of the copy of the award under Section 3G(1) of the Act from the State respondents.

The learned Arbitrator is directed to consider and dispose of the application within three months from the date of receipt thereof upon affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

The decision taken by the learned Arbitrator shall be communicated to the petitioner within a month thereafter.

With the above observations and directions this writ petition being WPA 7552 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.)