

08.09.2023
rc/ct.no.10
Item No.05

WPA No. 8117 of 2023
Prime Tradecom Pvt. Ltd. & Ors.
Versus
The State of West Bengal & Ors.

Mr. Arindam Banerjee	
Mr. Priyanko Banerjee	...for the petitioners
Mr. Chandi Charan De	
Mr. Anirban Sarkar	...for the State

Being aggrieved by the compensation paid to the petitioners for acquisition of their land the petitioners filed an application before the concerned authority through their learned advocate on January 20, 2023 seeking a reference either under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”) or under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the Act of 2013”);

The petitioners’ prayer was turned down on two fold grounds by a letter issued on March 03, 2023:-

(i) Section 18 of the Act of 1894 was not applicable in the case of the petitioners in view of the judgment of this Court passed on March 30, 2022 in FMA No. 1793 of 2018 and (ii) Since the petitioners accepted the award, they could not have taken recourse to Section 64 of the Act of 2013.

It is submitted on behalf of the petitioners that the award was received by the petitioners in terms of the order passed by an Hon'ble Division Bench of this Court in CPAN No. 621 of 2022 in FMA No. 1793 of 2018 on September 16, 2022. The Hon'ble Division Bench permitted the petitioners to accept payment from the State/alleged contemnor therein without prejudice to their rights and contentions. The petitioners seek reconsideration of their application for reference.

Upon consideration of the submission made on behalf of the parties and material on record, this Court is inclined to hold that since the award was accepted by the petitioners in terms of the order of this Court, the same cannot preclude them from filing reference under Section 64 of the Act of 2013. The second paragraph of the letter impugned turning down the prayer of petitioners on that score is required to be set aside.

In view of the above, the second paragraph of the letter dated March 03, 2023 is set aside/quashed.

The concerned authority, being the 3rd respondent herein, is directed to revisit the issue of enhancement of the award upon affording reasonable opportunity of hearing to the petitioners and pass a reasoned and speaking order within two months from the date of communication of this order, in accordance with law. The petitioners are at liberty to produce evidence -both oral

and documentary, before the authority at the time of hearing.

Copy of the enhanced award, if any, be communicated to the petitioners within one week thereafter.

With the above observation and direction this writ petition is disposed of.

There shall, however, 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)