

October 06, 2023
(20) ARDR

WPA 9860 of 2023

Aeroheight Apartment Consultants Pvt. Ltd. & ors.
Vs.
The State of West Bengal & ors.

Sr. Adv. Jaydeep Kar,
Adv. Manju Bhutaria,
Adv. Siddhartha Banerjee,
Adv. Dwipayan Basu Mallick,
Adv. Rajesh Upadhyay,
Adv. Jyoti Routh,

...for the petitioners.

Adv. Chayan Gupta,
Adv. Saaqib Siddiqui,

...for the respondent no.6.

Adv. Satyajit Talukdar,
Adv. Piu Karmakar,

...for the KMDA.

Adv. Chandi Charan De,
Adv. Sadhan Kumar Haldar,

...for the State.

Heard learned counsels for the parties.

The primary grievance of the petitioners is that the 6th respondent has refused to issue no objection certificate in favour of the petitioners for raising construction in the plots in question for the reason that the plots were intended to be acquired by the State respondents and notification under Section 6 of the Land Acquisition Act, 1894 (in short Act of 1894) was published.

The State respondents have submitted a report in the form of affidavit which demonstrates that though notices under Sections 4 and 6 of the Act of 1894 were published, no award was passed within the stipulated time frame, nor possession was taken.

In view of the above, the only inference that can be drawn is that the L. A. case being no.4/2023 of 2005-2006 lapsed in terms of the provisions laid down under Section 11A of the Act of 1894. In the result, the plots in question can be held to be freehold plots not covered by any acquisition. HIDCO, being the 6th respondent herein, therefore, cannot have any impediment in issuing no objection certificate in favour of the petitioners.

The writ petition is accordingly disposed of directing the HIDCO, being the 6th respondent herein, to take necessary steps for issuance of the no objection certificate in favour of the petitioners in respect of the plots in question within two months from the date of communication of this order in accordance with law upon the petitioners complying with all requisite formalities.

With the aforesaid directions, WPA 9860 of 2023 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 on usual undertakings.

(Suvra Ghosh, J.)