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20.01.2023
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W.P.A. 10240 of 2022
(Niranjan Singh vs. State of West Bengal & Ors.)

Mr. S. P. Pahari

.... For the Petitioner

Mr. Soumitra Bandyopadhyay

Mr. Subhasish Bandyopadhyay

.... For the State

Mr. S. S. Koney

.... For the WBSEDCL

Exception used by the petitioner to the report submitted by the State respondents is taken on record.

Heard learned counsels for the parties.

The twin prayer of the petitioner is for issuance of notice of award under Section 12(2) of the Land Acquisition Act, 1894 in connection with L.A. Case No. 25/2008-2009 and liberty to file an application under Section 18 of the said Act.

It appears from the report in the form of affidavit submitted by the State respondents that an order passed on 11th December, 2009 records that though notices under Section 12(2) of the Act of 1894 were issued to the awardees on 7th December, 2009, such notices could not be served due to public agitation. A contrary statement is found in page 6 of the report wherein the process server records that the notices were refused to be accepted by the awardees. Such contradiction has not been explained by the State respondents.

The acquisition proceeding was challenged by the petitioner in an earlier writ petition wherein a co-ordinate Bench of this Court, by an order passed on 6th March, 2020 in W.P. 16268(W) of 2010 observed that there was no acceptable evidence produced by the petitioner therein to accept that the process of acquisition was not carried out in accordance with law. The writ petition was dismissed on an observation that the remedies of the petitioner connected to the quantum of compensation could be availed of only in accordance with law and did not fall within the purview of adjudication by the writ Court.

Pursuant to the said order the petitioner intends to file an application for reference under Section 18 of the Act of 1894 before the competent authority and prays for a direction upon the authority to deal with the same, in accordance with law.

The 9th respondent being the requiring body seeks liberty to place their objection to the said application under reference before the concerned authority.

Upon consideration of the submission made on behalf of the parties, the writ petition is disposed of with liberty to the petitioner to submit an application under Section 18 of the Act of 1894 before the third respondent within two weeks from date. The third respondent is directed to deal with the application, in accordance with law within one month from the date of

receipt thereof upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the 9th respondent.

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

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)