

WPA 10617 of 2018

Jasoda Rani Sarkar
Vs.
State of West Bengal & Ors.

Mr. Partha Pratim Roy ...for the petitioner.

Ms. Manika Roy ...for NHAI.

Mr. Manas Kr. Sadhu ...for the State.

Heard learned counsels for the parties.

The sole prayer of the petitioner is for a direction upon the learned arbitrator to accept the application filed by the petitioner under Section 3G (5) of the National Highways Act, 1956 for consideration of enhancement of compensation in respect of structures standing on the acquired plot.

It is not in dispute that compensation with regard to the land has been considered by the learned arbitrator upon hearing the petitioner who filed an application under Section 3G(5) of the Act of 1956 before the learned arbitrator for reassessment of the compensation payable to him in respect of the land acquired by the authority.

It is submitted on behalf of the petitioner that though reassessment of compensation in respect of the structures standing thereon was not included in the said application, the term land includes structures standing thereon.

On bare perusal of the arbitral award passed on 17th August, 2017 it appears that the learned arbitrator

considered reassessment of compensation in respect of land in question as well as the structures standing thereon and came to a conclusion that the rate at which compensation for structure was paid would remain unchanged. In other words, both the land and the structure were taken into consideration in the arbitral proceedings and no enhancement of compensation was made with regard to the structures standing on the land.

Since it is not in dispute that the petitioner was given an opportunity of hearing before the learned arbitrator prior to passing the arbitral award, in the event the petitioner is aggrieved by the said order, his remedy lies under Section 34 of the Arbitration and Conciliation Act, 1996, in terms of section 3G(6) of the Act of 1956.

In view of the above, this Court is inclined to hold that the writ petition is not maintainable before this Court and is liable to be dismissed.

The writ petition is dismissed accordingly, being not maintainable.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petitions 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.)