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jdt.

16.03.2023
jb.

W.P.A. 11127 of 2019
(Salamuddin Biswas & Ors. vs. The Union of India & Ors.)

Md. Sarwar Jahan
Mr. Sumanta Das

.... For the Petitioners

Mr. Chandi Charan De
Mr. Anirban Sarkar

.... For the State

Ms. Monika Ray

.... For the NHAI

Mr. P. P. Roy
Mr. Anirban Das

.... For the Respondent No. 6

The writ petitioners have assailed the order passed by the competent authority under the National Highways Act, 1956 and Additional District Magistrate(L.A.), Nadia on 18th December, 2018.

It is contended on behalf of the petitioners that the land in question which was acquired by the competent authority belongs to the petitioners and the structure on the land stood all throughout. The private respondent is a tenant in the plot in question and is in possession of the said structure. In awarding compensation, the authority has awarded compensation for the structure in favour of the private respondent though such structure was not raised by him. The petitioners have prayed for setting aside the order impugned and disbursement of compensation with regard to the structure in their favour.

It is submitted on behalf of the private respondent that it is recorded in the order impugned that the petitioners have admitted that a portion of the disputed structure may have been extended by the private respondent.

It is not in dispute that the land in question belonged to the petitioners/their predecessor-in-interest. Though extension of the structures standing thereon by the private respondent has been admitted by the petitioners before the competent authority, there was no evidence before the authority to determine whether the entire structure was constructed by the private respondent. It is also a fact that the petitioners have not been able to substantiate the construction of the structure in question. Be that as it may, there was no reason for the competent authority to grant compensation for the entire structure to the private respondent by depriving the petitioners. No reason has been assigned by the competent authority as to what persuaded him to grant compensation for the structure only in favour of the private respondent in absence of any document to suggest that the structure as a whole was constructed by the private respondent.

In view of the above, this Court is inclined to hold that the order impugned is bereft of sufficient reasoning and is required to be set aside.

The order impugned dated 18th December ,2018 is accordingly set aside.

The matter be remanded back to the competent authority, being the 4th respondent herein, for reconsideration of the representation submitted by the petitioners in the light of the observations made in this order and holding necessary enquiry in this regard upon affording reasonable opportunity of hearing to all the interested persons including the petitioners and the private respondent, in accordance with law. The entire exercise should be

completed within two months from the date of communication of this order.

The decision taken by the authority shall be communicated to the petitioners 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.)