

19.12. 2023
item No.16
n.b.
ct. no. 25

WPA 13311 of 2012

**Ardhendu Sekhar Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Rabindranath Mahata,
Mr. Prasanta Behari Mahata
.....for the petitioner.
Sk. Afrojul Haque
.....for the respondent no.4.

The present writ petition was preferred primarily for the following relief:

- a) *'A writ in the nature of Mandamus commanding the respondents authorities concerned to pay to your petitioner, interest upon the compensation money, according to the provision of section 31(3) and 33 of the West Bengal Industrial Infra-structure Development Corporation Act, 1974 read with Section 34 of Land Acquisition Act, 1894 immediately and without any further delay and, further, commanding them to act in accordance with law.'*

The capsulated form of the facts as unfurled in the writ petition are that a land acquisition proceedings being, L.A. Case No.1 of 1996-97 was initiated under the West Bengal Infra-structure Development Corporation Act, 1974 (in short, the Act of 1974) to acquire certain plots of

land, particulars of which are detailed in Annexure P-1 to the writ petition. The concerned authority took possession of the petitioner's lands on May 8, 1998 and the award was declared as per the provisions of Section of Section 28(5) of the Act 1974 read with Sections 23 and 24 of the Land Acquisition Act –I of 1894(in short, the Act- I of 1894).

By issuing a notice dated August 28, 2010, the petitioner was requested to receive the compensation from the office of the concerned respondent on August 30, 2010 and accordingly, the petitioner received the amount of compensation on August 30, 2010.

On receipt of such compensation, it was detected by the petitioner that no amount towards interest on compensation has been paid to the petitioner. Consequently, the petitioner made a representation before the concerned authority on September 29, 2010 making a prayer for payment of interest accrued on the compensation amount in terms of the relevant provisions of the Act of 1974 but despite receipt of such representation, the respondents maintained deceptive silence and hence, the petitioner has been constrained to approach this Court by preferring this writ petition.

On 30.11.2023, when the matter was taken up for hearing, the State remained un-represented and hence this Court requested Mr. Samimul Bari, learned advocate to appear in this matter and take instruction. Today when

the matter has been taken up for hearing, none appears to represent the State.

Mr. Mahato, learned advocate appearing for the petitioner argues that the compensation had not been paid before taking possession of the lands and hence, as per the legislative fiat, the respondents are bound to pay interest on the compensation amount. To invigorate his submission, he places reliance upon an un-reported judgment passed by a co-ordinate Bench of this Court in *W.P. No. 14946(W) of 2005 (Gopal Krishna Das Adhikary Vs. The State of West Bengal & Ors.)* and also judgment delivered in case of *State of West Bengal Vs. Gopal Krishna Das Adhikary* reported in 2007 (3) CHN 708.

Mr. Haque, learned advocate appearing for the respondent no.4 submits that the petitioner was asked to submit some documents and since the petitioner caused delay in submitting the documents there was a delay in making payment of the compensation amount. According to Mr. Haque, for this reason, the petitioner is not entitled to get any interest on compensation amount.

Having scanned that anatomy of the scheme of the Act of 1974, it appears that the provisions of Section 27 of the Act empower the State to acquire the land after after publication of notification in the Official Gazette in terms of Sub-Section 3 of Section 27 of the Act of 1974. Section 28 of the Act mandates that if the amount of compensation is not determined by agreement between

the State Government and the person to be compensated, the Collector shall determine the amount of compensation and in determining the Compensation, the Collector shall be guided by the provisions of Sections 23 and 24 of Act-1 of 1894.

In the case at hand, the amount of compensation was determined by the Collector in terms of in terms of the provisions of Sub-Section 5 of Section 28 of Act, 1974 read with the Sections 23 and 24 of Act-1 of 1894 and compensation was paid to the petitioner on August 30, 2010.

Section 33 of Act of 1974 deals with the issue of payment of interest. It would be profitable to reproduce the provisions of Section 33 of Act 1974 which read thus:

“33. Payment of interest- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the State Government shall pay the amount of compensation determined with interest thereon in accordance with the provisions of section 34 of the Land Acquisition Act, 1894”.

Section 34 of Land Acquisition Act is reproduced as follows :

“34. Payment of interest.- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which the possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof, which has not been paid or deposited before the date of such expiry.”

So, it is admitted position that the possession of land was taken on May 8, 1998 and no compensation has been paid on or before taking possession of the land. Hence, it is clear as day that as per legislative mandate incorporated in Section 33 of the Act, 1974 and Section 34 of the Act I of 1894, the petitioner is entitled to get interest on the compensation amount accrued for the period commencing from the date of taking possession of the petitioner's lands to till the date of payment thereof.

Taking stock of facts and circumstances of this case, the writ petition is disposed of by directing the respondent no.3 to pay interest accrued on the compensation amount for the period commencing from the date of taking possession of the petitioner's land till the date of payment of compensation i.e. from May 8, 1998 till August 30, 2010 in favor of the petitioner in terms of the provisions of Section 33 of the Act of 1974 read with section 34 of the Act I of 1894 within a period of three months from the date of receipt of this order.

With the above observation, WPA 13311 of 2012 is disposed of, however, without any order as to the costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Partha Sarathi Chatterjee, J.)

