

June 05, 2023
(21) ARDR

WPA 20501 of 2022

Dipak Kumar Mandal & anr.
Vs.
The State of West Bengal & ors.

Adv. Partha Pratim Roy,
Adv. Saugata Mitra,
Adv. Rameswar Sinha,
Adv. Subhadeep Maitra,
...for the petitioners.
Adv. Pran Gopal Das,
Adv. Tanmay Sett,
Adv. Shuvojeet Gupta,
...for the respondent no.10.
Adv. Ram Chanra Guchait,
...for the State.

Heard learned counsels for the parties.

The petitioners' grievance is that though the petitioners are co-sharers of land in R.S. plot no.2396 in Mouza Kantadih measuring 20 decimals along with the private respondents, the entire compensation for the acquisition of the said land has been paid to the private respondents despite the petitioners raising objection to the same. The petitioners have been deprived of their legitimate share of compensation.

The petitioners, by a letter dated 30th January, 2019 written to the Special Land Acquisition Officer, Purulia, requested payment of their share of compensation in lieu of acquisition of the plot in question. Pursuant to the said application, a notice was issued by the concerned authority fixing 23rd September, 2019 for hearing of the application. According to the petitioners, no further communication was made to the petitioners. In reply to an application under

the Right to Information Act, 2005 made by the petitioners on 15th February, 2019, the petitioners were informed on 5th September, 2019 that the entire compensation was paid in favour of the private respondents.

The report in the form of affidavit submitted on behalf of the State respondents demonstrates that the award was disbursed in favour of the private respondents on 11th December, 2019. No explanation has been given by the State respondents as to how such award was disbursed in favour of the private respondents when the application filed by the petitioners claiming compensation as co-sharers of the plot was pending before the authority. Instead of referring the matter to the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated, under Section 3H(4) of the National Highways Act, 1956, for apportionment of the compensation declared in favour of the owners, the State authority chose to disburse the entire compensation in favour of the private respondents for reasons best known to them, such act being bereft of any legal sanction.

Since the petitioners as well as the private respondents claim to be co-sharers in respect of the plot in question and entitled to compensation declared by the authority, the said dispute cannot be resolved by the State respondents. The matter needs to be referred to the civil court under Section 3H(4) of the Act of 1956 for apportionment the compensation payable to each one of them.

In view of the above, the writ petition is disposed of directing the competent authority, being the 3rd respondent herein, to refer the matter to the learned District Judge, Purulia under Section 3H(4) of the Act of 1956 within seven days from the date of communication of this order.

Upon such reference being made, the private respondents shall deposit the entire compensation amount received by them as referred to in the payment list annexed to the report in the form of affidavit submitted on behalf of the State respondents within seven days of such reference.

The learned District Judge is requested to deposit the said amount in an interest bearing auto renewing fixed deposit account with any nationalised bank till disposal of the reference so that the amount be disbursed in favour of the eligible persons upon deciding the reference.

The learned District Judge is also requested to consider and dispose of the reference as expeditiously as the business of the Court would permit.

With the above directions, WPA 20501 of 2019, is disposed of.

There shall however, be no order as to costs.

Since no affidavit in opposition 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.)