

06.02.2023
Sl. 2
Ct. No.17
BP

WPA 23042 of 2019
(Assigned)

Manoj Kumar Bhattacharjee & Anr.
Vs
The State of West Bengal & Ors.

Mr. Sattwik Bhattacharyya
Mr. Aashutosh Bhattacharyya
.....For the Petitioners

Mr. Ashim Kumar Ganguly
Mrs. Sukla Das Chandra
.....For the State

Ms. Manika Roy
.....For the N.H.A.O.I.

This is a land acquisition matter, according to the National Highways Act, 1956. In compliance with the direction of this court the learned District Judge of Purba Burdwan and Additional District Magistrate, L. A. who is the competent authority under the National Highways Act, 1956 have filed separate reports which have been placed in court today and those reports have been served upon the petitioners.

In course of the hearing it has been submitted on behalf of the petitioners that some co-sharers who are legal representatives of one Gopal Chandra Bhattacharjee, one of the co-sharers, since deceased are raising objection as to the pucca structure on the acquired plot of land which, according to them, was constructed by their father Gopal Chandra

Bhattacharjee. Prima facie I do not find any substance in such contention of the said legal representative of Gopal Chandra Bhattacharjee. The final decree in the partition suit was passed on 18th September, 1995.

Mr. Swapan Kr. Datta, learned advocate appearing for the respondent/State has drawn my attention to Section 3H(4) of the National Highways Act, 1956 which is as follows:

“3H. Deposit and payment of amount.- (1)*****
 (2)*****
 (3)*****
 (4) *If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”*

As there is a statutory provision for resolution of dispute as to the apportionment of the land, as has been referred in the said Section 3H(4) of the aforesaid Act, I relegate this matter to the said competent authority for referring the dispute to the decision of Principal Civil Court of original jurisdiction having jurisdiction for apportionment of the amount. While deciding the claims of the legal representatives of Gopal Chandra Bhattacharjee, the competent

authority shall take into account the partition decree which has been placed before this court by way of a supplementary affidavit affirmed on 30th November, 2021.

I direct the petitioners to file the said partition decree before the hearing by the court along with a copy of this order passed today.

As of now I do not think any further adjudication is required to be made in view of Section 3H(4) of the aforesaid Act.

I direct the Civil Court to decide the issue of apportionment within a period of four months from the date of communication of this order.

The certified copy of the order sheet has been filed in court today be kept on record.

It has been submitted by the writ petitioners that Manoj Kumar Bhattacharjee, who is one of the petitioners before this court has been shown as a person expired on 22.03.2009.

I fail to understand how such thing has been recorded when said Manoj Kumar Bhattacharjee is present before this court, who is an advocate and claiming that he is Manoj Kumar Bhattacharjee, who has filed this writ application.

I direct the prescribed authority to rectify this

mistake forthwith preferably within a period of two weeks from the date of receipt of the copy of this order.

The matter is disposed of with the above observation and direction.

(Abhijit Gangopadhyay, J.)

