

WPA 28067 of 2022

Azgar Ali Sheikh @ Azgar Sheikh & Ors.
Vs.
The State of W.B. & Ors.

Mr. Satyam Mukherjee
Ms. Sayani Ahmed ...for the petitioners.

Mr. Soumitra Bandyopadhyay
Mr. P. Batabyal ...for the State.

Report in the form of affidavit submitted on behalf of the State respondents is taken on record.

Heard learned counsels for the parties.

The facts of the case as recorded in the order passed on 22nd August, 2023 is as follows:

“The petitioners submit that the petitioners along with proforma respondents are recorded owners of the plot in question. Sometime in 1977-78, the State respondents excavated earth in some portion of the plot for digging a canal.

The petitioners learnt that the plot was acquired by the State vide LA Case No.50(R)/77-78. The petitioners filed a suit praying for declaration and injunction which was decreed by a judgment passed on 21st February, 2000.

The State authorities carried the judgment and decree in appeal and by judgment dated 29th June, 2002, the learned Appellate Court allowed the appeal in part and directed the State respondents to pay compensation to the present petitioners and the proforma respondents in respect of the unlawfully unoccupied portion of the property on ascertainment of the area upon physical verification and observing all formalities under the Land Acquisition Act within 4 months from the date of decree.

Learned counsel for the petitioners submits that such compensation has not been paid by the State respondents till date despite an execution case pending against them.

By an order passed on 6th April, 2021, in CO 677 of 2021 a co-ordinate Bench of this Court directed

the executing Court to dispose of the title execution case within a period of 4 months from the next date fixed before the Court despite which the execution case has not been disposed of, let alone any compensation being paid by the State respondents.”

It appears from the copy of order sheet of title execution no.6/04 dated 15th July, 2022 that it was submitted before the execution court on behalf of the Additional District Magistrate, (Land Acquisition), Nadia that the previously committed amount of Rs.1,81,000/- approximately would be soon disbursed positively by the next date. An assessment of the decretal property was already done through the DSR and the requisite compensation payable was arrived at about 35 lakhs. He further submitted that since the acquired land was utilized by the Nadia Irrigation Division, the Irrigation Department would disburse the rest of the amount. He undertook to take up the matter through proper channel with the Irrigation Department.

It is most unfortunate to note that the said amount has not been disbursed in favour of the petitioners till date.

It is pertinent to mention here that an order passed on 24th September, 2021 in the execution case indicates that an excess fund of Rs.32,16,427.00 was pending for placing before the State from the IMW Department for final payment.

In view of the above, this Court is inclined to hold that since out of the requisite compensation amount of Rs.35 lakhs, Rs.1,81,000/- is due to the petitioners and

the pro forma respondents from the 4th respondent and the remaining amount from the 7th respondent, the writ petition is disposed of directing the 4th respondent and the 7th respondent respectively to disburse the said amounts in favour of the petitioners and the pro forma respondents within four weeks from the date of communication of this order.

There shall, however, be no order as to costs.

Since no affidavit 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)