

Sl No.29
01.03.2023.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 430 of 2023
Dipak Kumar Das
-versus
The State of West Bengal & Ors.**

Mr. Kunaljit Bhattacharjee
Mr. Alok Sah
... for the petitioner.

Mr. Hirak Barman
Mr. Momenur Rahman
... for the State.

Mr. Jagriti Mishra
... for the respondent nos. 4 to 6.

The representation filed by the petitioner before the Special Land Acquisition Officer & Competent Authority under the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 filed on December 19, 2022 is pending consideration.

Admittedly, on the date the notification was published on September 24, 2019 inviting objections under Section 3(1) of the Act, the petitioner failed to submit any objection within the stipulated time period. Further to that the petitioner accepted the compensation paid on account of acquisition of his land.

Later on it dawned upon the petitioner that as per Section 7 of the Act, no pipeline can be laid under any land which, immediately before the date of the notification under Sub-section 1 of Section 3 was used for residential purpose, any land on which there stand any permanent structure which was in existence

immediately before the said date and any land which is appertaining to a dwelling house.

The petitioner specifically contends that there was a structure used for residential purpose on the land in question and it was impermissible for the authority to acquire the same.

Learned advocate representing the respondent nos. 4 to 6 submits, upon instruction that, on the date the notification was published, the structure which the petitioner refers to, may not have been in existence.

It has been submitted that a detailed project report is submitted prior to the notification being made and if the structure of the petitioner was at all found to be standing at the subject address before the publication of the notification under Section 3(1) of the Act, the same may not have been acquired.

It appears from the submissions of the parties that the petitioner has approached this Court at a very belated point of time, that too, after accepting compensation on account of the acquisition made by the authority. At this stage, there is hardly any scope to review the matter.

Keeping in mind the provisions of Section 7 and the restriction mentioned in the proviso thereto, the Court directs the respondent no. 3 to verify as to whether any structure of the petitioner was standing on the land in question on the date of notification and, if so, whether compensation was accepted by the petitioner on account of acquisition of the land along with the structure.

The respondent authority, if required, may afford an opportunity of hearing to the petitioner to produce documents in support of his statement that a structure was existing on the date of the notification.

The aforesaid consideration shall be made at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

A reasoned order shall be passed and communicated to the petitioner immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the prayer of the petitioner.

Learned advocate of the petitioner is directed to forward a copy of the representation dated December 19, 2022 and the notification dated September 24, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)