

Sl No. 18
05.06.2023.
SB-III
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In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

WPA 1055 of 2023

SUBODH GHOSH AND ANR.

VERSUS

THE STATE OF WEST BENGAL AND ORS.

Mr. Dhananjay Nayak,Adv.

Mr. Bapi Sarkar,Adv.

Mr. Debanshu Modak,Adv.

...for petitioners

Mr. Ajoy Kumar singhanian,Adv.

....for respondent no.5.

Mr. Hirak Barman,Adv.

Ms. B.Bose,Adv.

....for State.

The petitioner has filed the present application praying for a direction upon the respondents for payment of compensation on account of acquisition of the land of the petitioner by the Airport Authority for construction of residential quarters. As per the case of the petitioner, the Airport Authorities being the requiring

body were in need of landed properties for construction of Government quarters for their employees. Accordingly, they have deposited the amount to the acquiring body and the acquiring body has handed the possession of the property to the airport authority for construction of Government quarters. The acquisition was made in the year 1999. As per the case of the petitioner, the predecessor-in-interest of the petitioner has purchased the said property by way of registered deed in the year 1978 and the land was acquired in the year 1999 but no compensation was awarded.

Counsel for the petitioner has referred to the information received under Right of Information Act on 14th June, 2019 wherein the Special Land Acquisition Officer, Darjeeling had informed the petitioner that the compensation of the land bearing survey no 348 is released in favour of legal heirs of Upendra Nath Deb total amounting to Rs. 4,54,605/- and Purnima Ghai amounting to Rs. 37,924. It is also found from the record that the petitioner has also filed a civil suit before the learned Civil Judge (Junior Division) at Siliguri being Title Suit No 204 of 2014 (Subodh Ghosh & Anr. vs. Dipankar Chatterjee & Ors.) praying for declaration, injunction and consequential relief. In the said suit,

the schedule of property is mentioned as follows:

All that piece and parcel of vacant land measuring about 10 ½ Kathas, recording in R.S.Khatian No. 24/1, corresponding to L.R. Khatian Nos. 693, 695, 294, 788, 787 & 786, R.S. Plot No. 533 & 534, corresponding to L.R. Plot Nos. 345 & 348, under Mouza Rupsingh, J.L. No. 95, Touzi No. 91, Pargana Patharghata, P.S. Bagdogra, Dist. Darjeeling.

The land is butted and bounded as follows:-

By the North : Land of Sri Adhir Chandra Ghosh;

By the South : Land of Airport Authority of India which was acquired from the land of the plaintiffs,

By the East : Land of Sailendra Nath Ghosh;

By the West : Land of Sailendra Nath Ghosh.

From the schedule of property it reveals that the petitioner is claiming the title over the property bearing survey no. 348 along with other properties. In the present proceeding, petitioners alleged that the said property belongs to them and has been acquired by the airport authorities without any compensation.

Counsel for the petitioner submits that the petitioner has filed the said suit with regard to some of the portions of the property of survey no. 348 and not with regard to the property acquired by the Airport Authority.

This Court finds that on the one hand the petitioner has filed a suit claiming title over the property and, on the other hand, the petitioner is claiming compensation on the ground that the land of the petitioner has been acquired by the authority but no compensation has been given.

Counsel for the respondent submits that the authorities have acquired the property by paying appropriate compensation to the concerned owner of the property and, as such, the petitioner cannot claim further compensation from the authorities. He further submits that on 14.6.2019 it was informed to the petitioners that the compensation amount with respect of Plot No. 348 has been disbursed to the legal heirs of Upendra Nath Deb & Purnima Ghai.

Considered the rival submissions of the respective parties, this Court finds that in one hand the petitioner is claiming the title over the property by filing suit, on the other hand, the petitioner submits that the petitioners were the owner of the property but the said property has been acquired by the authority without payment of compensation. There is a disputed question of fact whether the petitioners were the owners of the property and whether the petitioners are entitled to get compensation. The petitioners have already initiated a civil suit against the private persons wherein the petitioners are claiming title of the property and, as such, this Court is of the view that the disputed question of fact cannot be decided in the present writ

application. The writ application filed by the petitioner is misconceived. WPA No. 1055 of 2023 is thus dismissed.

(KRISHNA RAO,J.)