

05.01.2024

Ct. no.654

Sl. No.10

sn

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 2505 of 2023

The General Manager, Metro Railway, Kolkata
Vs.
Sunil Bhattar & Anr.

Mr. Bipul Kumar Mandal

... for the petitioner

Mr. Kamalesh Bhattacharyya

Mr. Aninda Bhattacharyya

..for the respondents

Affidavit of service filed by the petitioner be taken on record.

This writ petition has been filed challenging the judgment dated 8th July, 2022 passed by the appellate authority, Metro Railway, Kolkata in connection with Acquisition Claim Appeal No.04 of 2020 (arising out of Acquisition Claim Case No. JB/528/2017).

The brief fact of the case is that the property of the respondents-claimants situated at R.S. plot no.298/487, J.L.No.16, Mouza Banagram, District South 24 Parganas measuring more or less 11 Cottahs 2 Chittak 27 Sq.ft was acquired by the petitioner and the competent authority granted compensation of Rs.53,20,162/- in favour the claimants considering the market value of land, valuation of assets attached to land or building and 100% solatium in respect of the aforesaid property. The petitioner being

aggrieved by compensation granted by the competent authority in favour of the claimants preferred an appeal before the appellate authority, precisely on the ground that competent authority failed to consider that at the time of joint inspection no construction was found in the case land and thereby the claimants are not entitled to compensation towards structure and shifting of structure. The appellate authority after due consideration dismissed the appeal on contest and affirmed the judgment passed by the competent authority.

Being aggrieved by and dissatisfied with the impugned judgment of the appellate authority confirming the award passed by the competent authority, the petitioner filed the present writ petition.

Mr. Bipul Kumar Mandal, learned advocate for the petitioner- General Manager, Metro Railway, Kolkata submits that as per the inspection report, no structure was found in the case land and as such compensation granted towards structure and shifting of structure is not tenable in the eye of law. He seeks for modification of the award granted in favour of the claimants.

In reply to the contentions raised on behalf of the petitioner, Mr. Kamalesh Bhattacharyya, learned advocate for the respondent nos. 1 & 2 submits that the appellate authority after considering the valuation report dated 30th June, 2015, inspection report dated 1st December, 2017 as well as valuation depicted in Exhibit-

B and other material evidence on record, confirmed the award passed by the competent authority. He further indicates that in his cross-examination PW-2 Surajit Mitra, who made valuation of the property, has categorically stated that upon inspection he found a shed covering an area of 532 sq.mt. on the case land. Therefore, it is an admitted position that there was structure over the case land. In the aforesaid backdrop, the award passed by the competent authority and confirmed by the appellate authority should not be interfered. He prays that the writ petition should be dismissed.

Having heard the learned advocates for the respective parties, it is found that the petitioner precisely has raised the ground, challenging the award, that there was no structure on the land and as such the respondents-claimants are not entitled to receive compensation for structure and shifting of such structure.

Upon perusal of the impugned judgment passed by the appellate authority, it is found that it has considered the evidence of PW-2 Surajit Mitra. In his cross examination by the Metro railway authority, PW-2 has specifically stated that upon inspection he found a shed covering an area of 532 sq.mt. on the case land and roof was made of corrugated shed. Therefore, the presence of such shed on the case land has remained undisputed.

Considering the above, the assessment of compensation made by the competent authority confirmed by the appellate authority does not call for any interference.

In view of the above discussions, this writ petition being no. **W.P.A. 2505 of 2023** stands dismissed. The impugned judgment passed by the appellate authority is affirmed.

All connected applications, if any, also stands disposed of.

Interim order, if any, stands vacated.

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

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)`