

06.11.2024

Ct. no.39

Sl. No.7

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

W.P.A. 2683 of 2023
(specially assigned)

Jaleswar Singh Sardar
Vs.
Union of India & ors.

Mr. Sankar Nath Mukherjee
Mr. Niraj Gupta
... for the petitioner

Mr. Ashim Kumar Ganguly, Ld. AGP
Ms. Jyotsna Roy Mukherjee
... for the State

Ms. Manika Roy
Ms. Shinjita Roy
Ms. Ankita Chowdhury
... for the NHAI

This writ petition has been filed for consideration of representation of the petitioner dated 6th December, 2022 submitted before the competent authority.

The case of the petitioner in nutshell is that the petitioner was running a shop over the land situated at Mouza-Malti, J.L.-78, P.S.-Balarampur, in Dag No. 3042, 3024, 3077, 3071, 3181 by constructing *pucca* residential house and shop. The said land was notified for acquisition. Notice was issued to the petitioner for producing relevant documents for grant of compensation. The petitioner produced all the relevant documents before the competent authority. However, no such compensation was granted in his favour. Thereafter, the petitioner through his authorized agent and learned Advocate

submitted a representation on 6th December, 2022, which has not yet been considered by the authority. Hence, this writ petition.

Mr. Sankar Nath Mukherjee, learned Advocate appearing on behalf of the petitioner referring to Section 3(c) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (*hereinafter referred to as 'the Act of 2013'*) submits that the petitioner has been running a tailoring shop on the land-in-question. By such acquisition the livelihood of the petitioner is being affected and as such the petitioner is entitled to have compensation. Hence, the competent authority be directed to consider the representation of the petitioner.

Ms. Manika Roy, learned Advocate appearing on behalf of the respondent nos.3, 4 and 5-NHAI submits that the petitioner has failed to produce a single scrap of paper to show that he has been running a tailoring shop over the land-in-question and as such, he cannot be included within the definition of '*affected family*' under Section 3(c) of the Act of 2013. Hence, the petitioner is not entitled to compensation.

Mr. Ashim Kr. Ganguly, learned Additional Government Pleader appearing on behalf of the State respondent nos.2, 6 and 7 submits that the petitioner is not in possession of the land-in-question, which could be found fore on field enquiry. The petitioner was asked by

the competent authority to produce relevant documents at the time of hearing, which he has failed to do so. Further, there is no structure possessed by the petitioner over the said plot-in-question. The record of rights pertaining to the plot-in-question does not record the name of the petitioner. In light of the aforesaid, he submits that the writ petition is liable to be dismissed, since the petitioner has no right over the said plot.

Upon hearing the learned Advocates for the respective parties, it is relevant to note that the petitioner has raised the issue that he is running a tailoring shop over the land-in-question. The report of the State-respondents records that the petitioner, at the time of hearing, failed to produce any documents. Such assertion of the State-respondents has been refuted by learned advocate for the petitioner. Be that as it may, not a single document has been annexed to the writ petition showing that the petitioner is carrying on such business. Admittedly, opportunity was given to the petitioner by the competent authority to produce relevant documents. In the event of failure to produce relevant documents, the argument that the petitioner comes within the definition '*affected family*' under Section 3(c) of the said Act of 2013 falls short of merit.

Accordingly, this writ petition being **W.P.A. 2683 of 2023** is dismissed.

All connected applications, if any, stand dismissed.

Interim order, if any, stands vacated.

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

(Bivas Pattanayak, J.)