

03.12.2024

Ct. no.39

Sl. No.28

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

W.P.A. 3510 of 2023
(specially assigned)

Anima Biswas & ors.
Vs.
The State of West Bengal & ors.

Mr. Shamim ul Bari
Ms. Keya Sutradhar
... for the petitioners

Ms. Manika Roy
Ms. Ankita Chowdhury
Mr. Atanu Sur
... for the N.H.A.I.

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

This writ petition has been filed seeking adequate compensation at the present market rate for the land measuring 14.5 decimals in plot No.105 under Mouza Pumlia, Chakdaha in the District of Nadia and the structure thereon.

The case of the petitioners in nutshell is that the petitioners' land and structure within plot No.105 under Mouza Pumlia, Chakdaha in the District of Nadia measuring 14.5 decimals was acquired in the year 2010-11 for widening of the National Highway No.34 in L.A. Case No.70/NH/CH/10-11. The award was declared in favour of the petitioners' predecessor-in-interest namely, Sarajit Biswas. The said Sarajit Biswas challenged the quantum of award and prayed for enhancement of compensation. The prayer of enhancement was

considered and allowed by the Arbitrator, District Magistrate and Collector, Nadia on 18th August, 2017. Being aggrieved by the said order the petitioners have preferred the present writ petition.

The respondent nos.2, 3 and 5, 6-State respondents filed their report contending that the compensation of land value along with structure was duly paid to the predecessor-in-interest of the petitioners namely, Sarajit Biswas. Therefore, the petitioners cannot raise the issue and pray for fresh calculation of compensation of the land and structure at the prevalent market rate.

Report is also filed by the respondent nos.7 and 8-NHAI wherein it is contended that the award was granted in favour of predecessor-in-interest of the petitioners who had accepted the same. The enhanced award granted by the Arbitrator had also been paid to the predecessor-in-interest of the petitioners.

Mr. Shamim ul Bari, learned Advocate appearing on behalf of the petitioners submits at the outset that the enhanced award granted by the Arbitrator has not yet been paid in terms of the award.

Ms. Manika Roy, learned Advocate representing the NHAI indicates that the prayer for calculation of adequate compensation on the basis of present market value is beyond the scope of Section 3G of the National Highways Act, 1956. She also submits that the remedy of the

Upon perusal of the report of the State authorities it is found at page 4 & 6 that the predecessor-in-interest of the petitioners namely, Sarojit Biswas had received the award as well as additional compensation after arbitration. There is no pleadings that the additional compensation paid is not in terms of the order of the Arbitrator. Therefore, the contention of the petitioners of not getting additional compensation in terms of order of Arbitrator does not stand to reason.

In order to consider the prayer of the petitioners that the adequate compensation should be considered at present market value it would be apposite to reproduce Section 3G(7) of the National Highways Act, 1956.

- “3G. (1).
- (2).
- (3).
- (4).
- (5).
- (6).
- (7). The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration –
- (a) the market value of the land on the date of publication of the notification under section 3A.
- (b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;
- (c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;
- (d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”

Upon cursory reading of the aforesaid provisions it is quite clear that while determining the calculation of

compensation, the market value of the land on the date of publication of notification under Section 3A of the National Highways Act of 1956 is to be taken into consideration. In the aforesaid backdrop, the prayer of the petitioners for calculation of compensation considering the present market value falls short of merit.

In view of the above discussion, the writ petition being **WPA 3510 of 2023** stands dismissed.

All connected applications, if any, stand dismissed.

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

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

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

(Bivas Pattanayak, J.)