

May 16, 2024
ARDR (964)

WPA 5049 of 2024

M/s. Aawas Construction Pvt. Ltd. & ors.
Vs.
The Union of India & anr.

Sr. Adv. Jaydeep Kar,
Adv. Ayan Banerjee,
Adv. Dhiman Banerjee,
Adv. Sayani Roy Chowdhury,
...for the petitioners.
...for the UOI.

Affidavit of service filed on behalf of the petitioners is taken on record.

The judgment delivered by the appellate authority on 17th January, 2024 is assailed in the writ petition.

The petitioners filed a claim case in connection with acquisition case no. NGA/92/2017 before the competent authority under Section 13(1) of the Metro Railways (Construction of Works) Act, 1978. By a judgment delivered on 14th March, 2022 the claim case was allowed in part on contest awarding compensation to the claimants/petitioners to the tune of Rs.57,10,12,312/-. The opposite parties/respondents were directed to disburse the said amount within two months from the date of order. The order was carried in appeal by the Metro Railways/respondents before the appellate authority. Both the parties filed applications under Order XLI Rule 27 of the Code of Civil Procedure before the appellate authority seeking to produce certain documents as additional

evidence. By the judgment impugned, the appellate authority sent the matter back on remand to the learned competent authority with an observation that both the parties be given an opportunity to adduce further evidence and place their arguments afresh before the competent authority.

Instead of adjudicating the applications filed by the parties under Order XLI rule 27 of the Code, the appellate authority sent the matter back on remand before the competent authority for retrial. By doing so, the appellate authority has in fact allowed both the applications filed by the parties and granted them opportunity to adduce further evidence.

Learned counsels for the parties submit that the documents sought to be produced by both the parties be directed to be considered by the appellate authority in adjudicating the appeal. In view of the same, this Court is inclined to hold that the judgment impugned dated 17th January, 2024 is required to be set aside.

Accordingly, the writ petition, being WPA 5049 of 2024 is allowed.

The appellate authority is directed to reconsider the appeal upon hearing both the parties and taking into consideration the material placed before it including the additional documents placed by way of applications made by both the parties under Order XLI rule 27 of the Code.

It is expected that the appeal shall be disposed of as expeditiously as the business of the appellate authority would permit.

Learned counsel for the petitioners submits that the respondents have failed to deposit the compensation amount in terms of Section 14 of the Act of 1978 in compliance with the order of the competent authority.

It is not in dispute that the respondents did not seek stay of the operation of the said order before the appellate forum when the appeal was preferred.

Since the respondents were directed to award compensation to the tune of Rs.57,10,12,312/- to the claimants/petitioners by the competent authority by the judgment delivered on 14th March, 2022, the respondents are directed to deposit the said amount with the competent authority within two weeks from date.

The competent authority is directed to deposit the amount in an auto renewing interest bearing account with any nationalised bank immediately upon receipt of the same. Realisation/refund of the amount shall abide by the result of the appeal.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

On prayer of both the parties, liberty is granted to them to communicate the gist of this order.

(Suvra Ghosh, J.)