

19.11.2024
Ct. 39
Sl.no.9
samarpita

WPA 10298 of 2014

Bimal Mondal

-Vs-

The State of West Bengal & Ors.

Mr. Mrinal Kanti Biswas,
Mr. Manish Biswas

... for the petitioner

Mr. Arindam Mondal,
Mr. Arindam Ghosh

... for the State

Affidavit-in-reply filed on behalf of the
petitioner is taken on record.

On the prayer made on behalf of the learned
advocate for the petitioner, leave is granted to correct
the Khatian number in continuing paragraph no.2 at
page 6, paragraph no.6 at page 8, Ground no.1 at
page 10, in prayer (a) at page 13 and prayer (e) at
page 14 of the writ petition by incorporating Khatian
No.831/1 in place of Khatian No.711.

This writ petition has been filed for payment of
compensation of land measuring about 16 decimal in
Dag No. 2766 of Mouza- Sulkuni Abad, J.L.
No.75/76, Khatian No.831/1 Police Station-
Hasnabad, District North 24 Parganas.

The petitioner's case in a nutshell is that the
land of the petitioner was notified for acquisition
under Section 4 of the Land Acquisition Act, 1894

(hereinafter referred to as the 'Act, 1894'). Thereafter, notice under Section 9 of the Act, 1894 calling upon the petitioner to appear personally on 11th May, 2011, at the office of the Block Development Officer, Hasnabad to state the nature of such interest in the land. Pursuant to such notification, the petitioner appeared before the Block Development Officer, Hasnabad. However, since no compensation was disbursed to the petitioner, the petitioner on 4th April, 2012, submitted a representation before the Additional District Magistrate and District Land & Land Reforms Officer, Barasat, North 24 Parganas for getting compensation of the land acquired. However, the said representation of the petitioner was not considered and disposed of. Hence, this writ petition.

Mr. Mrinal Kanti Biswas, learned advocate appearing for the petitioner submits that the land of the petitioner comprised within Dag No. 2766 was acquired by the government for construction of embankment in Sundarban Area affected by AILA. Though the petitioner was called to state the nature of interest in the said land in the Office of Block Development Officer, Hasnabad, but no compensation has been paid to the petitioner. The petitioner made a representation for getting such compensation. However, the same has not been paid, as yet. Being aggrieved by such inaction of the state

authorities, the petitioner has preferred the present writ petition.

On the contrary, Mr. Arindam Ghosh, learned advocate appearing for the State-respondents submits that the Dag No. 2766 is a large plot with several Khatians measuring about 2.46 acres of land. The land belonging to one Mr. Bikash Baulia has been acquired. The land of the petitioner within Khatian No.831/1 was never acquired. Further, from the representation of the petitioner itself, it reveals that the petitioner prayed before the State for acquiring his land and, therefore, it clearly manifest that on the date of making such representation, the land of the petitioner was not acquired. Since the land of the petitioner was not acquired, hence there cannot occasion for payment of compensation to the petitioner. In the aforesaid backdrop, he submits for dismissal of the writ petition.

Upon hearing the learned advocates for the respective parties, the only issue which has fallen for consideration is whether the petitioner is entitled to receive compensation in respect of the land acquired.

Upon perusal of the Annexure P-1 at page 17 of the writ petition which is L.R. record of rights, it is found that the name of petitioner is recorded in respect of 16 decimals of land within Dag No. 2766, Khatian No. 831/1 in Mouza Sulkuni Abad, J.L. No. 76, P.S. Hasnabad, District North 24-Parganas. It is

not in dispute that 0.19 Acres i.e. 19 Decimals of land has been acquired in Dag No. 2766. The scheduled of land at page 19 of the affidavit-in-opposition shows that land of one Bikash Baulia within Dag No. 2766 under L.R. Khatian No.795/2 measuring 19 Decimals have been acquired. The scheduled of land at page 19 also records that the land of the petitioner comprised within L.R. Khatian No. 831/1 was not affected and thus not acquired. It is also relevant to note at page 25 of the affidavit-in-opposition that an amount of Rs. 39,176.18p. has been paid to one Bikash Baulia on 17th April, 2012 against the land acquired measuring 19 Decimals. It has been rightly indicated by the learned advocate for the State-respondents that the representation of the petitioner dated 4th April, 2012 also shows that the petitioner prayed for acquiring his land within Khatian No.831/1 measuring 16 decimals of land. Thus, as per the petitioner on the date of making representation, the land of the petitioner was not acquired. In compliance to order dated 10th April, 2014 passed in the writ petition, the State Authorities have caused enquiry and from the order dated 30th October, 2014, it is found that the petitioner is not entitled to get compensation. Since it is found that the petitioner's land was never acquired, hence, the question of payment of compensation does not arise

at all. In the aforesaid backdrop, the writ petition falls short of merit.

In the light of the above discussion, this writ being no. **WPA 10298 of 2014** stands dismissed.

All connected applications, if any, stand 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.**)