

18.04.2024
rc/ct.no.10
Item No.25

WPA No. 16714 of 2022
Radhanath Modak
Versus
Union of India & Ors.

Mr. Sankar Nath Mukherjee
Mr. Niraj Gupta
Ms. Afroja Nusrat ...for the petitioner

Ms. Manika Roy ...for the NHAI

Mr. Subrata Bhattacharjya
Ms. Benazir Sk. ...for the respondent no.4

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

Heard learned counsels for the parties.

The petitioner is aggrieved by the award under Section 3G(1) of the National Highways Act, 1956 (hereinafter referred to as “the Act of 1956”) and seeks to file an application under Section 3G(5) of the Act of 1956 for enhancement of the same.

It is submitted on behalf of the petitioner that the authority has not followed the First Schedule, the Second Schedule and Section 30(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the Act of 2013”) in assessing the compensation.

Learned counsel for the National Highways Authority of India submits that the First Schedule and the Second

Schedule of the Act of 2013 are not applicable in case of assessment of compensation under the Act of 1956.

Upon consideration of the submissions made on behalf of the parties this Court is inclined to hold that since the petitioner seeks to submit an application under Section 3G(5) of the Act of 1956 for enhancement of the award the petitioner is at liberty to submit such application before the concerned learned Arbitrator within three weeks from date.

The learned Arbitrator is directed to take necessary steps for disposal of the application by way of arbitration in accordance with Section 3G(5) of the Act of 1956 within three months from the date of receipt thereof upon affording reasonable opportunity of hearing to all concerned including the petitioner, in accordance with law.

In the event no learned Arbitrator has yet been appointed in the Mouza in question the authority may appoint learned Arbitrator who shall take up the matter and conclude the same in accordance with law within the stipulated time frame.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

With the above observations and directions this writ petition is disposed of.

There shall however be no order as to costs.

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

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)