

11.12.2024

Item No. 15

Crt.No.02

b.r.

WPA 25050 of 2024

Usha International Limited

-vs-

The State of West Bengal & Ors.

Mr. Amit Kumar Pan

Ms. Tanusri Santra

... for the petitioner.

Mr. Chandi Charan De, Ld. AGP

Mr. Anirban Sarkar

.... For the State-respondents.

Mr. Naba Kumar Das

Mr. Anirban Banerjee

.... For the KMDA-Resp. nos. 3, 4 and 5.

Affidavit of service filed in Court today, is taken on record.

Mr. Amit Kumar Pan, learned counsel, appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader, appears for the respondent nos. 1 and 2.

Mr. Naba Kumar Das, learned counsel, appears for the respondent nos. 3, 4 and 5.

The petitioner submits that despite there being a final determination of compensation **Award** payable to the petitioner as the land of the petitioner was acquired and utilized for public purpose, the compensation has not yet been paid. The final determination has also

been done under **Section 18 of the Land Acquisition Act, 1894.**

Learned counsel Mr. Pan for the petitioner relies upon a judgement of the Hon'ble Division Bench dated **August 23, 2023** rendered in **FMA 689 of 2022, In the Matter of : Sri Himangshu Mallick & Anr. Versus- The State of West Bengal & Ors.** The relevant observations from the said judgement are quoted below:-

“7. Learned advocate for the appellant has relied upon the authority in the case reported in 1942 OnLine Cal 119 (Asmaboo Kurban Hossain and Ors Vs. Province of Bengal) on the proposition that Section 82 of the Code of Civil Procedure with regard to execution of decree was not applicable in the facts of the present case.

11. On the other hand, the learned advocate for the respondent State submitted that the petitioners sat over their claim for the award money for long 23 years. The never approached the Small Causes Court, Kolkata for execution of the award in terms of the provisions of Section 77(2) of the Calcutta Improvement Act, 1911 2022:CHC-AS:71544-DB 6 within the limitation prescribed under Article 136 of the Limitation Act, 1963.

16. By the impugned order, learned single judge negated the claim of the writ petitioners on the ground of delay. It was contended that the appellants never approached the Small Causes Court, in terms of Section 77 (2) of the Calcutta

Improvement Act, 1911, for execution of the award and no reasonable explanation has been advanced on behalf of the appellants for the inordinate delay.

50. By now it is well settled position of law that State cannot hide behind delay & laches to evade it's responsibility after acquiring land. There cannot be a 'limitation' to doing justice.

51. Therefore, in the light of discussions made hereinabove, we are of the view that the appellants are very much entitled for the compensation of their land acquired by the respondent, in terms of the judgment and order passed on January 03, 1995 in C.I.T. Case No. 30 of 1989 (valuation) with interest calculated up to the date of payment in full. Accordingly, respondents are jointly and severally directed to make payment of such compensation to the appellants within a month hence."

Accordingly, the respondents are jointly and severely directed to make payment of the assessed compensation in accordance with law to the petitioner within a **month hence**.

With the above observations and directions, this writ petition, **WPA 25050 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)

(Aniruddha Roy, J.)