

Court No. 2
(265788)

29.11.2024
(AD 29)

(S. Banerjee)

WPA 27317 of 2024

Malay Nath Sarkar
Vs.
The State of West Bengal & Ors.

Ms. Rita Patra
Mr. Asim Kumar Ganguly
...for the petitioner
...for the State

Affidavit of service filed in court today is taken
on record.

Ms. Patra, learned advocate, appears for the
petitioner.

Mr. Ganguly, learned State-counsel, appears
for respondent nos. 1 to 3.

None appears for the respondent no. 4.

The land of the petitioner has been acquired
by the National Highways Authority and utilized for
construction and/or extension of the relevant
national highway. Compensation was awarded but,
the quantum of compensation has not been
accepted by the petitioner.

Being aggrieved by the said Award for
compensation, the petitioner has already invoked
the provisions under **sub-Section (5) to Section 3G**
of The National Highways Act, 1956 at page 10 to

the writ petition. The grievance of the petitioner is that the respondent no. 2, being the designated Arbitrator under the said 1956 Act, has not taken any further step in the matter. Hence this writ petition.

Learned State-counsel Mr. Ganguly has raised the point of maintainability of this writ petition on the ground that in view of operation of **sub-Section (6) to Section 3G of The National Highways Act, 1956**, the petitioner should have taken recourse to the Arbitration and Conciliation Act, 1996 and not the Writ Court.

After considering rival contentions of the parties and upon perusal of the materials on record, this court is of the view that on a plain and meaningful reading of **sub-Section (5) and sub-Section (6) to Section 3G of The National Highways Act, 1956**, the moment provisions under **sub-Section (5) to Section 3G of The National Highways Act, 1956** has been invoked, the proceeding has to follow in consonance with the Arbitration and Conciliation Act and the Writ Court cannot usurp the jurisdiction of the Arbitration Court.

It is pertinent to mention that this Court has also taken note of the fact that when the respondent

no. 2, being the designated Arbitrator under the 1956 Act, is in seisin of the matter, it is the bounden and statutory duty of the respondent no. 2 to complete the arbitration reference as expeditiously as possible and to come to a logical conclusion in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

Accordingly, **WPA 27317 of 2024** is held not to be maintainable and stands dismissed, without any order as to costs.

(Aniruddha Roy, J.)