

30.07.2024
Ct. No. 2
Sl. No. 46
tbsr

WPA 27143 of 2022

**Saktipada Ghosh & Ors.
Vs.
State of West Bengal & Ors.**

Mr. Sabyasachi Hazra
Mr. Samaresh Ch. Dhara
Mr. K. Choudhury
....for the petitioners

Mr. Asim Kr. Ganguli
Mr. S. Das Gupta
....for the State

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

Mr. Sabyasachi Hazra, learned advocate appears for the petitioners.

Mr. Asim Kr. Ganguli, learned Additional Government Pleader appears for the respondents.

The petitioners claim payment of reasonable and fair compensation in respect of the land acquired by the State authority.

Learned Additional Government Pleader submits a report on the issue, the same is taken on record.

The order of the learned jurisdictional District Judge dated **August 9, 2005** passed in **LA 32 of 2001, Annexure P-1 at page 13** to the writ petition shows that the petitioners were permitted to withdraw

the amount of compensation to the tune of Rs. 3,39,536/- awarded by the Collector in connection with LA Case No. 9(IV)/1996-97 under protest. The petitioners submit that, the petitioners had accepted the said compensation with protest.

Subsequently, being aggrieved by the quantum of compensation, the petitioners on **February 17, 2020** and **December 14, 2020, Annexure P-3 at pages 18 and 19** applied before the jurisdictional Collector for enhancement of compensation. The said applications are not disposed of.

Learned Additional Government Pleader submits that, the applications were made in 2020 when the order for compensation was passed on August 9, 2005, which is at least 15 years later.

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, admittedly the order of the District Judge was passed on August 9, 2005 when the petitioners were permitted to withdraw the compensation determined then. Subsequently, the petitioners applied for enhancement for compensation admittedly in 2020 which is 15 years later. The acquisition proceeding held in **1996-97**.

The reasonable presumption is that, the fair compensation was assessed taking the value of the

land at that juncture in 1996-97. The petitioners claim enhanced compensation in 2020 when admittedly the market price had enhanced by few times. This is not the law. Had petitioners been really aggrieved after receiving the compensation in 2005, the petitioners would have challenged the quantum of compensation immediately thereafter. The petitioners have slept over their right and choose not to challenge the quantum of compensation contemporaneously. Moreover, the claim for enhancement of compensation cannot be kept alive for 15 years.

The report submitted by the learned Additional Government Pleader shows that, the land acquisition proceeding initiated with the issuance of notice under **Section 4 of the Land Acquisition Act, 1894** on **January 7, 1997**. In paragraph 2 to the writ petition, the petitioners pleaded that, they purchased the land by virtue of registered sale deed dated **January 10, 1997**. It clearly shows that, the petitioners are post acquisition purchasers in respect of the portion of the land under acquisition. The law is well settled. With the publication of the Section 4 notification, the land stands vested with the acquiring authority and any transfer of right, title and interest on the self same land subsequent to such vesting would be void *ab initio*.

Learned Additional Government Pleader further confirms this Court that, this acquisition proceeding stood conclude at least prior to September 11, 2001, when the compensation amount was duly deposited with the Collector.

In view of the foregoing reasons and discussions, this Court is of the firm view that, in respect of the portion of the land under acquisition after its vesting, purchased by the petitioners, the petitioners cannot claim any right over the same.

It is further made clear that, the **portion of the land which is not the subject matter of the acquisition under L.A. Case No. 9(IV)/1996-97** is free from acquisition.

In view of the above, this Court is of the firm view that, the writ petition is devoid of any merit.

Resultantly, this writ petition, **WPA 27143 of 2022** stands **dismissed**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)