

14 to 16
29.02.2024
Ct. No.10
b.das

WPA 29187 of 2017

Anil Kumar Roy
Vs.
The State of W.B. & Ors.
With
WPA 28480 of 2017

Uttam Dey & Ors.
Vs.
The State of W.B. & Ors.
With
WPA 29193 of 2017

Biswanath Dey & Ors.
Vs.
The State of W.B. & Ors.

Mr. Prantik Ghosh
Mr. Siddhartha Sarkar
Mr. Sandip Dutta ...for the petitioners.

Mr. Dipankar Das ...for NHAI.

Mr. Ayan Banerjee ...for the State
in WPA 29187 of 2017.

Mr. Supratim Dhar
Mr. Manoj Kr. Mondal ...for the State
in WPA 28480 of 2017.

Mr. L. M. Mahata
Ms. Kumkum Das ...for the State
in WPA 29193 of 2017.

In re: WPA 29187 of 2017
with
WPA 29193 of 2017

Heard learned counsels for the parties.

It is not in dispute that the petitioners are co-sharers
in respect of the plot in question, 4.6 decimals of which
have been acquired for expansion of National Highway
No.34.

The petitioners seek to submit an application under Section 3H (4) of the National Highways Act, 1956 before the appropriate forum for apportionment of the compensation declared by the authority in order to enable them to receive their share of compensation.

In view of the above, the writ petitions are disposed of with liberty to the petitioners to submit a comprehensive application before the Competent Authority for reference of the same to the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated, within two weeks from the date of communication of this order.

The Competent Authority, being the 7th respondent herein, is directed to refer the application to the principal civil court of original jurisdiction within two weeks from the date of receipt thereof.

In Re: **WPA 28480 of 2017**

Written instructions submitted on behalf of the State respondents is taken on record.

Heard learned counsels for the parties.

It is not in dispute that out of total acquired area of 4.60 decimals of land, the petitioners were in possession of 0.78 decimals, which amounts of 17% of the total acquired area.

Earlier prayer of the petitioners for disbursement of 1/3rd share of the compensation was turned down by the District Magistrate (LA) and Competent Authority, NHAI,

Nadia by an order passed on 27th March, 2017. The said order was set aside by a co-ordinate Bench of this Court by an order passed on 5th September, 2017 in WP 10387 (W) of 2017. In the said order, the learned Court directed the authority to disburse the share of compensation to the petitioners after giving the petitioners and the private respondents therein an opportunity of hearing.

Pursuant to the said order, the Competent Authority, NHAI upon granting opportunity of hearing to all the co-sharers, observed in an order passed on 6th November, 2017 that though the petitioners might have ownership of 33% of the total 19 decimals of the plot, they were in possession of 17% of the acquired portion of the plot amounting to 4.6 decimals and are entitled to compensation for the said area only. The authority directed disbursement of payment of the petitioners' share of compensation.

Learned counsel for the State respondents submits that though 17% of the share of the compensation was offered to the petitioners, they have refused to accept the same.

Learned counsel for the petitioners submits that the petitioners are agreeable to receive the said compensation amount without prejudice to their rights and interest.

In the event the petitioners are able to substantiate their claim in the pending partition suit they seek liberty to take necessary steps for enhancement of the said amount.

In view of the above, the writ petition is disposed of with liberty to the petitioners to accept the 17% of compensation as offered by the respondent authorities without prejudice to their rights and contention.

The petitioners shall be at liberty to claim further compensation commensurate with their share in the plot in question subject to the result of the partition suit.

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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)