

04.12.2024
Ct. No. 2
Sl. No. 15
tbsr

WPA 27880 of 2024

Jahangir Alam & Ors.

Vs.

State of West Bengal & Ors.

Mr. Ramdulal Manna

Ms. Manju Manna (Dey)

Mr. Sayan Mukherjee

....for the petitioners

Mr. Chandi Charan De

Mrs. Reshma Chatterjee

....for the State respondents

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

Mr. Ramdulal Manna, learned advocate appears for the petitioners.

Mr. Chandi Charan De, learned Additional Government Pleader appears for respondent nos. 1 to 3 and 5.

None appears for the rest of the respondents.

The land of the petitioners have been acquired by the National Highway Authority. Compensation has already been paid to the petitioners/land losers and they have accepted the same. However, the petitioners being aggrieved with the quantum of compensation since all the relevant factors while calculating the compensation namely loss of business and loss of structure have not been considered, the petitioners applied under **Sub-Section (5) to Section 3G of the National Highways**

Act, 1956 and the arbitral reference is pending, **Annexure P-10 at page 51** to the writ petition. Representation is also pending before the competent authority under the said 1956 Act, **Annexure P-9 at page 45** to the writ petition.

Through this writ petition, the petitioners seek direction upon the respondent no. 3 to dispose of its representation being **Annexure P-9 at page 45** to the writ petition.

After considering the submissions made on behalf of the petitioners and upon perusal of the materials on record, it appears to this Court that once the provisions under **Sub-Section (5) to Section 3G of 1956 Act** has been invoked the issue is now within the domain of the arbitrator and not within the domain of the respondent no. 3. **Sub-Section (6) to Section 3G of the 1956 Act** specifically provides for recourse to the **Arbitration and Conciliation Act, 1996** in the facts and circumstance where the arbitral reference is pending.

In view of the above, the petitioners shall be at liberty to apply before the jurisdictional Civil Court under the appropriate provisions of the **Arbitration and Conciliation Act, 1996** to ventilate its grievance. The petitioners shall also be at liberty, if they wish, they can file necessary application before the learned Arbitrator who is *in seisin* of the arbitral reference.

It is also to be noted when an arbitral reference is pending before the learned Arbitrator under the said 1956 Act, it is expected that the arbitral reference shall come to its logical conclusion as expeditiously as possible and the same shall not be kept pending for long and beyond a reasonable period. It is the statutory duty of the Arbitrator under the said 1956 Act to complete and conclude the reference in accordance with law.

In view of the above, no further order is required to be passed in this writ petition as the same is not maintainable.

It is made clear that this Court has not gone into the merits of the claim of the petitioners and the petitioners shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the appropriate jurisdictional forum and dismissal of this writ petition shall not stand in the way of adjudication of the merits of the claim by the jurisdictional forum.

Accordingly, this writ petition, **WPA 27880 of 2024** 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.)