

Court No. 2
04.11.2024
(Item No. 6)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 26880 of 2023
+
CAN 1 of 2024

Alam Khan & Ors.
VS
The State of West Bengal & Ors.

Mr. Rwitendra Banerjee
Ms. Roma Roy
.... For the petitioners
Mr. Ayan Banerjee
Mr. Debapriya Chatterjee
.... For the State respondents
Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Mr. Kaustav Bhattacharya
Ms. Priyanka Jana
.... For respondent Nos. 12 & 46
Mr. Sabir Ahmed
Mr. D. Banerjee
.... For respondent No. 13
Mr. Chittapriya Ghosh
Ms. Priyanka Saha
.... For respondent Nos. 21 to 27
Mr. supratim Dhar
Ms. Rupsa Chakraborty
.... For added party

In Re: **CAN 1 of 2024**

This is an application filed by one Sri Chandan Baral, the applicant who proposed to be added as a party respondent in the parent writ petition.

Mr. Rwitendra Banerjee, learned counsel appears for the writ petitioners.

Mr. Ayan Banerjee, learned State counsel appears for respondent Nos. 1 to 6 being the State respondents in the writ petition.

Mr. Sabir Ahmed, learned counsel appears for respondent No. 13 a private respondent in the parent writ petition.

Mr. Debjit Mukherjee, learned counsel appears for respondent Nos. 12 and 46, two private respondents in the parent writ petition.

Mr. Chittapriya Ghosh, learned counsel appears for respondent Nos. 21 to 27, the private respondents in the parent writ petition.

Mr. Supratim Dhar, learned counsel appears for Sri Chandan Baral, the applicant herein.

By consent of the parties both the application and the parent writ petition are considered simultaneously and are disposed of through this order.

In Re: **W.P.A. 26880 of 2023**

The principal contention of the petitioners in the parent writ petition is that, the land acquisition compensation fixed by the respondent No. 4, the Additional District Magistrate and competent authority was inadequate and was calculated on a basis which is not otherwise tenable in law.

The compensation was awarded by the respondent No. 4 in the writ petition on the basis of a legal opinion obtained from the concerned learned Government Pleader, District Purulia. The applicant in

CAN 1 of 2024 in **paragraph 7** therein has alleged as follows:

“That the applicant states that Additional District Magistrate, being the competent authority ought not accept the opinion of the Learned Government Pleader, particularly when the father of the Learned Government Pleader was a conducting Advocate in Title Suit No. 129 of 1962. Moreover, the Learned Additional District Magistrate, being the competent authority ought to have decided the proceeding independently by applying his mind.”

The learned counsel appearing for the parties before this Court today, on instruction from their respective clients, have confirmed that the above statements made in the said application are true and correct. The parties have further agreed that the impugned decision of the respondent No. 4 dated **August 21, 2023** being **order No. 3** at **page 42** to the writ petition, in view of the above contentions of the parties, can be set aside and be remanded back before the respondent No. 4 for its independent decision afresh on the issue.

In view of the above, the respondent No. 4 upon issuing a prior hearing notice of at least ten days to the parties to the writ petition and the applicant, namely, Sri Chandan Baral and after

affording them an opportunity of hearing shall decide the issue afresh by passing a reasoned order in accordance with law.

It is needless to mention that, the respondent No. 3 shall decide the issue with its independent mind and without being influenced by any previous legal opinion and pass its reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent No. 4 positively within a period of **eight weeks** from the date of communication of this order.

It is made clear that this Court has not gone into the merits of the respective contentions of the appearing parties and merely on a technical ground the order dated **August 21, 2023** at **page 42** to the writ petition stands **set aside**. The parties shall be at liberty to urge all their points before the respondent No. 4. The parties shall also be at liberty to rely upon whatever records and documents they wish to rely upon before the respondent No. 4.

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

With the above observations and directions this writ petition **W.P.A. 26880 of 2023** and **CAN 1**

of 2024 stand **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)