

02.08.2024
Ct. No. 2
Sl. No. 15
tbsr

WPA 28997 of 2022

**Gopal Bag & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Supratick Shyamal
Mr. Dilip Kr. Shyamal
Ms. Somosreedebi Dutta
....for the petitioners

Mr. Chandi Charan De
Mr. Anirban Sarkar
....for the State

The petitioners claim that they are the successors-in-interest in respect of the subject land which was acquired during the lifetime of their predecessor. The compensation was quantified but the predecessor of the petitioners has not received the same. As the legal heirs and successors-in-interest of the predecessor, namely, Prafulla Bag, since deceased during whose lifetime the land was acquired, the petitioners claim the compensation. The land was acquired in connection **LA Case No. 48/56(1) of 2015-16.** Therefore, **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013** (for short 'the said 2013 Act') would operate and govern the field and not the Land Acquisition Act of 1894.

Through this writ petition, the petitioners have challenged the impugned order dated **March 17, 2022 at page 34** to the writ petition passed by the respondent no. 3. On a close scrutiny of the said impugned order, it appears that the respondent no. 3 has referred the matter for adjudication under Section 30 read with Section 31 of the 1894 Act. The error is apparent on the face of the impugned order. The infirmity in the decision making process is glaring on the face of the impugned order.

For the foregoing reasons, the impugned order dated **March 17, 2022** cannot sustain in the eye of law and the same stands **set aside** and **quashed**.

The petitioners shall take steps under Section 77 read with Section 64 of the said 2013 Act by submitting a written application to the jurisdictional Collector, who in turn shall refer the matter before the jurisdictional authority for deciding the issue to be raised by the petitioners. The Collector shall positively refer the matter before the jurisdictional authority within a period of **two weeks** from the date of receiving the written application from the petitioners. The jurisdictional authority then shall decide the issue by granting an opportunity of hearing to the petitioners and all other interested persons, if any, and shall pass a reasoned order. The jurisdictional authority shall

issue prior notice upon the petitioners and the other interested persons, if any, prior to commencement of hearing. The entire exercise shall be carried out and completed by the jurisdictional authority positively within a period of **two months** from the date of receiving reference from the Collector.

Following the reasoned order, the compensation shall be paid to the beneficiaries by the appropriate authority positively within a period of **one month** from the date of passing of the said reasoned order.

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, **WPA 28997 of 2022** stands **disposed of**, 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.)