

17.01.2024
Item no.21.
Court No.6.
AB

**M.A.T. 835 of 2020
With
IA CAN 1 of 2020**

**Maya Mallick & Others
Vs
The State of West Bengal & Others**

Mr. Shibaji Kumar Das,
Mr. Dipendu Sarkar,
Mr. Aniket Kanrarfor the Appellants.

Mr. Soumitra Bandopadhyay,
Mr. Srinath Singha Royfor the State.

Affidavit of Service filed in Court today, be kept
with the records.

A judgment and order dated November 20, 2020,
whereby the writ petition of the appellants herein,
being WPA No.7935 of 2020, was dismissed by a
learned Judge of this Court, is the subject matter of
challenge in this appeal.

It is not in dispute that a plot of land belonging
to the appellants/writ petitioners was acquired under
the provisions of the National Highways Act, 1956.
The Competent Authority quantified the amount of
compensation payable to the appellants/their
predecessors-in-interest. The landowners were
unhappy with the amount of compensation. Hence,
they invoked Section 3G(5) of the National Highways
Act, 1956, and served notice of arbitration on the
concerned Authority. Arbitration was held. The

appellants participated in such arbitration proceedings. The arbitration culminated in an award dated July 6, 2017. The Arbitrator did not change the amount of compensation that was assessed by the Competent Authority.

The appellants did not challenge the arbitral award as they could have done under the Arbitration and Conciliation Act, 1996. Section 3G(6) of the National Highways Act provides that the provisions of the Arbitration & Conciliation Act, 1996 shall apply to every arbitration under the National Highways Act, 1956. Instead of challenging the award, the appellants received the amount of compensation that had been assessed by the Competent Authority and not interfered with by the Arbitrator.

It appears that the acquisition proceedings in respect of a plot of land adjacent to the plot of land of the appellants culminated in an award passed in 2019. The appellants came to know that much higher compensation was paid in respect of such adjacent plot of land.

With the grievance that the State has discriminated between the two concerned plots of land, the appellants approached the learned Single Judge of this Court by filing the present writ petition. The learned Judge dismissed the writ petition with the following observations:

“With respect, the conclusion of the acquisition proceedings in respect of the adjacent plot of land in 2019 do not vest the petitioners with an additional ground or extends the period of limitation for challenging the award passed under the Act of 1956.

As noted above, the Act of 1956 makes the provisions of the Arbitration and Conciliation Act, 1996 applicable so far an award passed under the Act of 1956 is concerned. The petitioners not having assailed the award, passed under the Act of 1956 under the provisions of the Arbitration and Conciliation Act, 1996 within the time period prescribed under the provisions of the Act of 1996, no relief can be granted by the writ Court.”

Being aggrieved, the writ petitioners have come up by way of this appeal.

Mr. Das, learned Advocate appearing for the appellants says that a representation was made way back on May 17, 2017, to the District Magistrate of Nadia through the Competent Authority under the National Highways Act, 1956, for enhancement of the compensation amount. That representation was kept pending and only by a Memo dated January 15, 2019, the Competent Authority under the 1956 Act purported to inform the appellants that their representation had been rejected. After that, they approached the Writ Court. He says that there has been manifest discrimination between the owners of the two concerned plots of land. The compensation assessed in respect of the land of the appellants is arbitrary and in fact mala fide. Hence, the Writ Court should interfere.

Mr. Bandopadhyay, learned Advocate representing the respondents says that the appellants had a remedy open to them. They could have challenged the arbitral award under the provisions of the 1996 Act. They chose not to. They received the compensation that was assessed. Today, they cannot be permitted to urge the point that they are unhappy with the amount of compensation.

Having considered the rival contentions of the parties, we are in agreement with the learned Single Judge. The appellants ought to have exercised their right to challenge the arbitral award before the appropriate forum if they were dissatisfied with the amount of compensation. Not having done so and having accepted the compensation that was determined, they cannot subsequently contend that the compensation amount was less than what it should have been.

We find no apparent infirmity in the order under appeal. The appeal and the connected application, accordingly, fail and the same are hereby dismissed, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)