

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side**

**CO 56 of 2024
with
CAN 1 of 2024**

**Union of India
-versus-
Terai Tea Company Ltd. & Anr.**

Mr. Sudipto Kumar Mazumdar, DSGI,
Mr. Ajoy Kumar Singhanian
....for the petitioner.
Mr. Sagar Bandyopadhyay,
Mr. Bikramaditya Ghosh,
Mr. Sitesh Kumar Gupta,
Ms. Supriya Singh
....for the opposite parties.
Mr. Hirak Barman,
Mr. Nabankur Paul
...for the State.

The matter appears to have a long history. A plot of land of which the opposite party no.1 is a lessee under the State of West Bengal had been requisitioned by the Ministry of Defence, Government of India under the Requisition and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as the 1952 Act). The opposite party no.1 applied under section 8 of the 1952 Act for determining the compensation. A former Judge of this Court was ultimately appointed as an Arbitrator for determining the compensation.

The learned sole Arbitrator passed an award on 3rd April, 2019 under the provisions of 1952 Act. The opposite party no.1, being the claimant, preferred an

appeal challenging the said award under the provisions of section 11 of the 1952 Act.

An Hon'ble Division Bench of this Court by a judgment and order dated 13th June, 2022 upheld the award partially and remanded back the matter by setting aside the award with regard to issue nos.6, 8 and 10 framed by the learned Arbitrator. The issues remanded for reconsideration by the learned Arbitrator are as follows:

“6. Are the claimants entitled to any compensation in respect of movable property?”

8. What would be the proper method for determination of values of trees and tree bushes, destroyed by the respondent in utilizing the plots of land in question after requisition of the same by them?

9. Whether the claimants are entitled to any interest on the value of the tree bushes and tree destroyed on requisition of land and on the rent compensation for the past periods and if so at what rate?”

On remand, the petitioner filed an application before the learned Arbitrator for impleading Government of West Bengal represented by the Deputy Secretary, Land & Land Reforms and R. R. & R. Department, Land Policy Branch as party to the proceedings before the learned Arbitrator. The said application has been rejected by the learned Arbitrator vide an order dated 27th February, 2024 by imposing costs of Rs.25,000/- to be paid to Santiniketan Sishutirtha within a period of 30 days from the date of

receipt of the said order, and in default, such sum will carry interest @ 12% per annum.

Being aggrieved and dissatisfied with the judgment and order dated 27th February, 2024 the petitioner has preferred this revisional application.

After hearing the parties and considering the materials on record, I find no infirmity in the order impugned, save and except imposition of cost for the reasons as stated hereinbelow:-

- (1) The proceedings before the learned Arbitrator is for determining the compensation. The claimant is the opposite party no.1 and the respondent is the petitioner. The State of West Bengal is neither a necessary nor a proper party in the said proceedings.
- (2) The presence of State of West Bengal for the purpose of determining the compensation for pronouncement of the award on the issues which has been remanded for consideration is not necessary. The presence of State of West Bengal in the proceedings before the learned Arbitrator is also not necessary for adjudication of the issues remanded back.
- (3) The prayer for adding the State of West Bengal had been previously made in the proceedings before the learned Arbitrator which was turned down by an order dated 15th February, 2017.

The said order was never challenged by the petitioner.

(4) The petitioner, therefor, cannot be allowed to reopen the issue of adding the State of West Bengal as a party to the proceedings when the matter has been remanded for reconsideration on 3 issues after upholding the rest of the award.

(5) The learned sole Arbitrator has given detailed reason for rejecting the petitioner's prayer for adding State of West Bengal as a party. The reasons are cogent and cannot be faulted.

The petitioner, however, submits that few documents which were not in the possession or custody of the petitioner at the time when the award was passed on 3rd April, 2019 after exercising due diligence have an important bearing in respect of the three issues directed to be reheard and decided on remand. These documents are required to be considered by the Arbitrator.

The Division Bench while passing judgment and order dated 13th June, 2022 had exercised its jurisdiction after finding that the three issues were required to be revisited by the Arbitrator as the same were not properly dealt with. The Division Bench has not restricted the learned Arbitrator from considering

additional evidence while deciding the three issues remanded back.

It will be, therefor, open for the parties to adduce fresh evidence in respect of the three issues and the learned Arbitrator shall consider the same in accordance with law in the perspective of the relevancy of the documents.

So far as the cost is concerned, the petitioner being a department of the Government of India will be paying the same from the Government exchequer which comprises of tax payers' money.

In such facts and circumstances, cost part in the order dated 27th February, 2024 is set aside.

Nothing further remains to be adjudicated in this revisional application. The same is accordingly disposed of.

Re: CAN 1 of 2024

Since the revisional application is finally disposed of, the application filed by the opposite parties for vacating the interim order passed in this revisional application has become infructuous. The same is also disposed of without any further order.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)