

03.01.2024
Item No.19
gd

WPA/2909/2023
NARAYAN DAS
VS
THE STATE OF WEST BENGAL & ORS.

Mr. Deborshi Dhar,
Mr. Rajan Raj
..for the Petitioner.

Mr. Hirak Barman,
Mr. Bikash Singha
..for the State.

Ms. Supriya Singh
..for the Respondent/NHAI.

Mr, Dhiraj Lakhotia,
Ms. Meghana Joshi,
Ms. Khushi Kundu
..for the Respondent No.5.

Petitioner claims that he was in continuous and long possession in respect of RS Plot No.2366 corresponding to LR Plot No.5745 within Mouza-Kholta in the District of Cooch Behar.

The learned advocate appearing for the petitioner refers to the Memo dated 15th June, 2022 issued by the Special Land Acquisition Officer, Cooch Behar wherein it has been stated that the petitioner is a person interested in respect of several plots including RS Plot No.2366.

The learned advocate appearing for the petitioner submits that he has come to know that the respondent authorities have paid the compensation amount in respect of R.S. Plot No.2366 to the private

respondent no.5. He submits that though the private respondent no.5 cannot be said to be a person interested in respect of the said plot yet the respondent authorities have paid compensation to the said respondent.

The respondent no.5 is, however, represented by its learned advocate.

He submits that the compensation amount has been received by the said respondent.

The learned advocates appearing for the State and the National Highway Authority submit that payment of compensation have been made to the person interested in respect of RS Plot No.2366.

Heard the learned advocates for the parties and perused the materials placed.

Upon hearing the submissions of the learned advocates for the parties, it appears that the dispute raised by the petitioner in this writ petition is that the petitioner being the owner of the land is entitled to compensation in respect of RS Plot No.2366, corresponding to LR Plot No.5745 and the respondent no.5 was paid the compensation amount in spite of the fact that the said respondent cannot be said to be a person interested in respect of the said plot. Thus, a dispute has arisen as to whether the compensation amount has been paid to the person who is lawfully entitled for the same.

In this regard, the provisions laid down in Section 3H(4) of the National Highways Act, 1956 may be relevant for which the same is extracted hereinbelow:

“3H(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”

Therefore, if any dispute arises as to whom the compensation or any part thereof is payable, the competent authority shall have to refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

In view thereof, this court is of the considered view that the interest of justice would be subserved if liberty is granted to the petitioner to apply before the competent authority raising a dispute in terms of Section 3H(4) of the 1956 Act.

WPA 2909 of 2023 is disposed of by giving liberty to the petitioner to apply before the competent authority raising the dispute in terms of Section 3H(4) within two weeks from date and if such application is filed, the competent authority shall act in terms of the provisions laid down under Section

3H(4) of the 1956 Act within two weeks from the date of submission of such application.

There shall be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)