

08.07.2025
Sl. No.16
AMR
Ct.No.-19

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA No. 2642 of 2025

**Rashida Khatun & Anr.
Vs.**

The State of West Bengal & Ors.

**Mr. Prosenjit Mukherjee
Mr. Jahangir Hossein
Mr. Arghya Kamal Das**

...for the petitioners

**Mr. Rajendra Banerjee
Mr. Ravi Ranjan Kumar**

**...for the Respondent nos. 6 to
9/Eastern Railway**

**Sk. Md. Galib, Sr. Govt. Adv.
Mr. Abu Siddique Mallik**

...for the State

1. The Affidavit-of-Service as filed today on behalf of the writ petitioner is taken on record.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs commanding the respondent authorities for cancellation of the compensation award as declared in terms of the letter dated 14.12.2022 with a further

prayer commanding the said authorities to calculate the said award on the basis of the present market value.

3. At the time of hearing, Mr. Mukherjee learned advocate appearing on behalf of the writ petitioners, at the very outset, draws attention of this Court to paragraph 2 of the instant writ petition vis-a-vis page no. 21 of the instant writ petition being a copy of RoR of the relevant land standing in the name of the writ petitioner no. 1.

4. It is submitted that on perusal of the materials as placed before this Court, it would reveal that in respect of plot no. 512, the writ petitioner no. 1 is the owner of 75 decimals of land in Mouza-Ramchandrapur under P.S.-Murarai.

5. In his next fold of submission, Mr. Mukherjee again draws attention of this Court to page nos. 23 and 24 of the instant writ petition being a copy of a newspaper cutting dated 12.06.2021 showing publication of notice under Section 20A(1) of the Railway (Amendment) Act, 2008. It is submitted that by publication of the said notification, the railway authority expressed his intention to acquire land for initiating Rampurhat Murarai Railway Project including the aforementioned land of the writ petitioner no. 1.

6. It is further submitted that from page no. 25 of the instant writ petition, it would reveal that the writ petitioner no. 1 was served with a copy of notice of L.A. Case No. 1/2021-22 by the respondent no. 4/authority. It is submitted that soon thereafter i.e., 24.02.2022, the writ petitioner no. 1, in the form of an application under RTI Act, raised objection to such L.A. Case.

7. It is further submitted that under cover of a letter dated 29.04.2022, the respondent no. 2/authority being the competent authority under the Railways Act, 1989 handed over the possession of the acquired land to the Railway Authority including the land of the writ petitioner no. 1 situated in L.R. Plot No. 512 in Mouza- Ramchandrapur.

8. At this juncture, it is further contended on behalf of the writ petitioner no. 1 that on conjoint perusal of page nos. 29 and 31 of the instant writ petition, it would reveal that there lies a dispute with regard to the area as have been acquired in respect of L.R. Plot No. 512 which originally belongs to the writ petitioner no. 1.

9. It is further submitted that under cover of a letter dated 1.9.2022, the writ petitioner no. 1 requested the respondent no. 4/authority to furnish

the following informations, namely – the quantum of land as has been acquired for the said Railway Project, the amount of compensation as has been determined and the rate of compensation.

10. It is further submitted that from page nos. 40 and 41 of the instant writ petition, it would reveal that the writ petitioner no. 1 requested the respondent no. 4/authority for taking appropriate steps since the writ petitioner no.1 was aggrieved with the quantum of compensation as has been awarded in connection with the said L.A. Case. It is, however, submitted that the said application bears a wrong heading.

11. It is, thus, submitted on behalf of the writ petitioner no. 1 that since there lies a dispute with regard to the actual amount of land acquired by the respondent no. 4/authority on behalf of the Railway being the requiring body and since the amount of compensation as has been awarded is exceptionally low, the instant writ petition may be allowed by granting reliefs to the writ petitioners in terms of the prayers made in the instant writ petition.

12. In course of his submission, Mr. Mukherjee also places his reliance upon the provisions of 20-D of the Railways Act, 1989 (hereinafter referred to as the said **“Act, 1989”** in short).

13. Per contra, Mr. Galib, learned advocate appearing on behalf of the respondent/State and its functionaries, submits before this Court that since the acquisition proceeding was initiated under the said Act of 1989 and since from the pleadings of the instant writ petition, it reveals that the writ petitioner no. 1 is not satisfied with the amount of compensation as has been determined by the respondent no. 4/authority, the proper course of action of the writ petitioner no. 1 would be to approach the respondent no. 2/authority being the competent authority under the said Act of 1989 to make an application for reference to the arbitration.

14. Drawing attention to page no. 40 of the instant writ petition, it is further submitted by Mr. Galib that from the said page, it would reveal that the writ petitioner no. 1 has filed an application under Section 18 of the Act 1 of 1894 for making a reference which is, however, not permitted in view of the provision of Section 20-N of the said Act of 1989 in view of the fact that it is the clear legislative mandate that Act 1 of 1894 will not apply to an acquisition proceeding as has been initiated under the said Act of 1989.

15. Mr. Banerjee, learned advocate appearing on behalf of the Railway Authority, while adopting the

argument of Mr. Galib, placed his reliance upon a copy of letter dated 5.4.2023 as has been annexed at page no. 35 of the instant writ petition. It is submitted by Mr. Banerjee that from the said Memo dated 5.4.2023, it would reveal that the Railway Authority being the acquiring body has already received possession of the acquired land from the Government of West Bengal through the Special Land Acquisition Officer, Suri, District- Birbhum and the entire awarded compensation amount has been disbursed by the Railway Authority to the State Government.

16. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it reveals to this Court that the main grievance of the writ petitioner no. 1 is regarding inadequacy of the compensation as has been declared in connection with L.A. Case No. 1/2021-22.

17. At this juncture, I propose to look to the provision of Section 20-F of the said Act of 1989 which is reproduced hereinabove in verbatim.

"20-F. Determination of amount payable as compensation. –

(1) Where any land is acquired under this Act, there shall be paid an amount which shall

be determined by an order of the competent authority.

- (2) *The competent authority shall make an award under this section within a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:*

Provided that the competent authority may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within an extended period of six months:

Provided further that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent of the value of the award, for each month of such delay.

(3)

(4)

(5)

- (6) *If the amount determined by the competent authority under sub-section (1) or as the case may be, sub-section (3) is not acceptable to either of the*

parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government in such manner as may be prescribed.

(7) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(8)

(9) "

18. On careful perusal of the aforementioned legislative mandate, it, thus, appears to this Court that in the event the land looser feels aggrieved with the amount of award as well as with regard to the actual area of the land as claimed to have been acquired as has been determined by the competent authority, he shall have to make an application for determination of the dispute by an Arbitrator to be appointed by the Central Government.

19. It further appears that in such arbitration proceeding, the provisions of the Arbitration and Conciliation Act, 1996 would apply.

20. From the submissions of the learned advocate for the writ petitioner no. 1, it appears to this Court that the writ petitioner no. 1 is practically aggrieved with the quantum of award as well as the rate by which such award has been fixed.

21. In view of such, this Court, while disposing the instant writ petition, permits the writ petitioner no. 1 to approach the competent authority being the respondent no. 2/authority by issuing a letter for referring the dispute to an Arbitrator under Section 20-F(6) of the said Act of 1989. If such an application is made by the writ petitioner no. 1 within 60 working days from today, the respondent no. 2/authority shall refer the matter to the Arbitrator under Section 20-F(6) of the said Act of 1989 for determination of the dispute as raised by the writ petitioner no. 1.

22. Liberty is given to the learned advocate for the writ petitioner no. 1 to communicate the server copy of this order to the respondent no. 2/authority.

23. The respondent no. 2/authority is hereby directed to act on the basis of the server copy of this order.

24. With the aforementioned observations, the instant writ petition is disposed of.

25. There shall be no order as to costs.

26. Urgent photostat certified copy of this order be given to the parties upon compliance of all legal formalities.

(Partha Sarathi Sen, J.)