

S/L 8
16.01.2025
Court. No. 551
Suvayan

**WPA 5108 of 2013
With
CAN 1 of 2014 (Old No. CAN 4471 of 2014)**

**Joydeb Das
Vs.
Union of India & Ors.**

*Mr. Ramdulal Manna
Mrs. Manju Manna
Mr. Sayan Mukherjee*

...for the petitioner.

Mr. Dipanjan Sinha Ray

...for the respondent nos. 1 to 6A.

Mr. Kamal Mishra

...for the respondent nos. 8 to 12.

1. The affidavit-of-service as filed today is taken on record.
2. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ or writs against the respondent authorities for recalling and/or setting aside their decision for payment of compensation in favour of the private respondent Nos. 8 to 12.
3. It is the case of the writ petitioner that the present two writ petitioner and the private respondent Nos. 8 to 12 jointly own and possess 0.49 acres of land in R.S. Plot No. 15166 corresponding to L.R. Plot No. 16757 in R.S. Khatian No. 3927 in Mouza – Kismat Bajkul, J.L. No. 156, P.S. – Bhupatinagar, District – Purba Medinipur.
4. It is the further case of the writ petitioner that for the purpose of construction of a Broad Gauge Link Line

from Deshpran Station to Nandigram Station an acquisition process for 0.072 acres of land in the said plot of land was started and the respondent Nos. 1 to 6A, i.e., the Union of India and its functionaries made publication of notice. Thereafter the said respondent authorities, i.e., the Union of India and its functionaries made an enquiry with regard to the ownership and possession of the acquired land and most unilaterally handed over the compensation amount to the private respondent Nos. 8 to 12 without considering the objections as raised by the petitioner on 15.02. 2013 a copy which has been annexed at page Nos. 48 and 49 of the instant writ petition being Annexure – P2.

5. In course of his argument Mr. Manna, learned Advocate appearing on behalf of the writ petitioner submits before this Court that under Section 20H of the Railway Act, 1989 (hereinafter referred to as the 'said Act of 1989) the competent authority, i.e., the respondent No. 6/6A is duty bound 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 and in not doing so the writ petitioner' valuable right to get compensation has been miserably affected for which interference of this Court is very much necessary and accordingly Mr. Manna request this Court to allow the instant writ petition by issuing appropriate writ or writs as prayed for.

6. *Per contra*, Mr. Sinha Ray, learned Advocate appearing on behalf of the respondent Nos. 1 to 6A, i.e., Union of India and its functionaries at the very outset draws attention of this Court to the annexures to the affidavit-in-opposition as filed by his client. It is submitted by Mr. Sinha Ray that from the said annexure it would reveal that there was no illegality and irregularity in the said acquisition proceeding. It is contended by Mr. Sinha Ray that prior to acquiring the land in question the necessary notification under Section 20A of the said Act of 1989 was published. It is further contended by Mr. Sinha Ray that from the record of right as maintained by BL&LRO, i.e., the respondent No. 7 it reveals that the acquired plot of land stood in the name of the private respondent Nos. 8 to 12 and thus there is no illegality and/or irregularity on the part of the respondent Nos. 1 to 6A in disbursing the compensation amount in favour of the private respondent Nos. 8 to 12.

7. It is further argued by Mr. Sinha Ray that being a writ court this Court cannot decide the title of the writ petitioner and private respondent Nos. 8 to 12 and thus the writ petition is liable to be dismissed since the writ petitioner has not availed the alternative efficacious remedy before the common law forum.

8. In course of his submission learned Advocate for the respondent/State submits before this Court that the compensation amount has already been disbursed to the private respondent Nos. 8 to 12.

9. Mr. Mishra, learned Advocate appears on behalf of the private respondent Nos. 8 to 12. He opposes the prayer of the writ petitioner.

10. For effective adjudication of the instant *lis* the provision of Section 20H of the said Act of 1989 is required to be looked into and the same is quoted hereinbelow in verbatim:

“20H. Deposit and payment of amount.”-(1) The amount determined under section 20F shall be deposited by the Central Government, in such manner as may be prescribed by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(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.

(5) Where the amount determined under section 20F by the arbitrator is in excess of the

amount determined by the competent authority, the arbitrator may award interest at nine per cent per annum on such excess amount from the date of taking possession under section 20-I till the date of actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government, in such manner as may be prescribed by the Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.”

11. Keeping in mind the aforementioned legislative provision if I look to the factual aspects of this case it appears to this Court that it is the specific case of the writ petitioner that in the aforementioned plot of land he is jointly possessing 0.49 acres of land with the private respondent Nos. 8 to 12. From page Nos. 48 and 49 of the instant writ petition it reveals that the present writ petitioner on 15.02.2013 submitted written objection to the respondent authorities raising objection to the respondent Nos. 1 to 6A's decisions to disburse compensation to the respondent Nos. 8 to 12.

12. On careful consideration of the entire materials as placed before this Court it appears that admittedly there lies a dispute with regard to the apportionment of the compensation for the aforementioned acquisition of land in the aforementioned plot since the writ petitioner

alleged that the petitioner has been deprived of his proportionate share of compensation though he was jointly possessing and owning the said plot of land while it is the case of the railway authority that of the writ petitioner's share of land was never acquired.

13. In view of such, in considered view of this Court there lies a dispute within the meaning of Section 28 (4) of the said Act of 1989.

14. Accordingly, while disposing the instant writ petition this Court directs the respondent No. 6A and in case of his non-availability the respondent No. 2 is hereby directed to refer the dispute to the Principal Civil Court of Original Jurisdiction, District – Purba Medinipur positively within a month from the date of communication of this order.

15. It is further directed that the respondent No. 6A and in his absence the respondent No. 2 while referring the said dispute to the said Court shall intimate in writing with regard to such reference both to the petitioner as well as to the private respondent Nos. 8 to 12 in writing and such notice are to be send by speed post.

16. It is contended on behalf of the respondent/railway authority that from the report the of BL&LRO it has been noticed that the said plot of land is not a joint property as wrongly claimed by the writ petitioner and on the contrary the writ petitioner's possessed land is situated on the northern side of the same plot which is far away from

the railway acquired area which is, however, disputed by Mr. Manna, learned Advocate for the writ petitioner.

17. It is made clear that while disposing the instant writ petition this Court has made no observation with regard to the title of the writ petitioner and the private respondent Nos. 8 to 12 in respect of the plot of land which has been acquired and thus the Principal Civil Court of Original Jurisdiction, District – Purba Medinipur is directed not to persuaded himself with any of the observation as made hereinabove while making the adjudication.

18. With the aforementioned observations, the instant writ petition being **WPA 5108 of 2013** along with the interim application being **CAN 1 of 2014 (Old No. CAN 4471 of 2014)** is hereby disposed of.

19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)