

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

F.A.T 96 of 2021

**State of West Bengal
Vs.
Amitava Das and another**

For the appellant/State : Mr. Asish Kumar Guha
Mr. Benazir Ahmed

For the respondents : Mr. Supratim Dhar
Mr. Dhananjay Nayak

Heard on : 01.05.2025

Judgment on : 01.05.2025

Sabyasachi Bhattacharyya, J.:-

1. Learned counsel for the appellant/State submits that the notification, in respect of which the award was passed by the Land Acquisition Collector, giving rise to the reference under Section 18 of the Land Acquisition Act, was published on November 11, 2008.

2. It is argued that although it was recorded by the learned Trial Judge that the date of taking possession was December 27, 1989, possession was actually taken on March 30, 2009.
3. Although learned counsel for the State seeks to rely on certain documents in that regard, we find that no application under Order XLI Rule 27 of the Code of Civil Procedure has been filed by the State and hence, such proposed documents having not been produced before the learned trial Judge, we are unable to look into such documents.
4. Learned counsel for the referring claimants/respondents submits that in the trial court, a written synopsis was made and filed by the learned Advocate appearing for the referring claimant giving the necessary particulars, which was received by the learned Government Pleader, who appeared for the State in the court below, and counter signed by the said learned Government Pleader.
5. The impugned judgment, it is submitted, was passed on the basis of the said synopsis as well as the Rate Report authored by the Collector, which also recorded the name of the scheme and the purpose of acquisition as well as other necessary details.
6. More importantly, learned counsel for the referring claimants submits that a review application was filed by the State in the trial court in respect of the impugned judgment which was

rejected and has attained finality, in the absence of any challenge thereto.

- 7.** Under such circumstances, it is submitted that there is no infirmity in the impugned judgment and the appeal should be dismissed.
- 8.** Upon going through the materials on record as well as the trial court records, we find justification in the contention of the respondents.
- 9.** We also find that the State did not adduce any evidence in the court below, whereas the referring claimant had deposed in support of their case.
- 10.** The State had also not raised any objection before the trial Court regarding the date of possession.
- 11.** Since the learned trial Judge acted on the evidence and materials on record and the undisputed documents before him, there is no infirmity or illegality in the impugned judgment and award. Thus, we are of the opinion that there is no scope of interference in the present appeal.
- 12.** Accordingly, FAT 96 of 2021 is dismissed on contest without any order as to costs, thereby affirming the impugned judgment and award dated January 22, 2019 passed by the learned Additional District Judge, Fourth Court at Alipore, District: South 24-Parganas in LDC Case No. 11 of 2009 (V).

- 13.** The learned Registrar General shall disburse the amount deposited by the State/appellant with the learned Registrar General in connection with the appeal in favour of the referring claimants/respondents, as and when so approached, along with the interest accrued on the same, after deducting the necessary statutory deductions.
- 14.** In the event the said amount does not meet the entire awarded amount, it will be open to the referring claimants/respondents to levy execution/proceed with the connected execution case, if already filed, for recovery of the balance amount.
- 15.** A formal decree be drawn up accordingly.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)