

S/L 10
23.07.2025
Court. No. 19
Sourav

WPA 16715 of 2023

**Sri Goutam Chowdhury
Vs.
The State of West Bengal & Ors.**

*Mr. Partha Pratim Roy
Mr. Anirban Das
Ms. Paulami Chakraborty
Mr. Samrat Chakraborty*

...for the petitioner.

*Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal
Ms. Suchana Banerjee*

...for the State.

1. The parties to the instant writ petition are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities, more specifically, against the respondent no. 2/authority to initiate a proceeding under Act XXX of 2013 on account of utilization of the land of the writ petitioner, particulars of which have been mentioned in paragraph no. 2 of the instant writ petition.
3. At the time of hearing, Mr. Roy, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page No. 4 of the report as submitted on behalf of the respondent nos. 2 and 4/authorities. It is submitted by Mr. Roy that from the said report, it would reveal that the aforementioned land of the writ petitioner was acquired by the respondents/authorities under Act II of 1948 by publication of notice under Section 4(1a) in the Gazette.

4. It is further submitted by Mr. Roy that from Page No. 5 of the said report, it would reveal further that the Deputy Secretary to the Government of West Bengal, Department of L & LR & RR & R directed the Special Land Acquisition Officer, Murshidabad to modify the award under Section 9(3B) of Act I of 1894 under cover of a memo dated 10.10.2017.
5. It is further submitted by Mr. Roy that from the said report, it would reveal that pursuant to the said memo dated 10.10.2017, the respondent no. 2/authority had sent a revised estimate to the tune of Rs. 47,82,615/-.
6. It is submitted by Mr. Roy that lifetime of Act II of 1948 as already expired and with the enactment of Act XXX of 2013 which was brought into effect on January 1, 2014, the Act I of 1894 was repealed. It is thus submitted by Mr. Roy that the respondents/authorities cannot revise the estimate on the basis of a repealed Act.
7. In his next limb of submission, Mr. Roy draws attention of this Court to Section 9(3A) and (3B) of Act I of 1894. It is submitted by Mr. Roy that in terms of the provision of Section 9(3A) and (3B) of Act I of 1894, the writ petitioner was not served with any notice after publication of notice under Section 4(1a) of Act II of 1948. It is further submitted by Mr. Roy that in terms of provisions of Section 7A of Act I of 1894, no award was made in respect of said requisition and acquisition proceeding within the period of three years and, therefore, the entire acquisition proceeding lapsed.

8. It is thus submitted by Mr. Roy that it is a fit case for issuance of appropriate writ/writs against the respondents/authorities for initiating an acquisition proceeding under the provisions of Act XXX of 2013 and for disbursement of adequate compensation in terms of the said Act of 2013.
9. Per contra, Mr. Batabyal, learned advocate appearing on behalf of the respondents/authorities at the very outset submits before this Court that the writ petitioner has miserably failed to explain the delay and laches on his part in approaching this writ Court for exercising extraordinary jurisdiction of this Court. It is further submitted by Mr. Batabyal that from the report as submitted before this Court, it would reveal that immediately after publication of notice under Section 3 of the Act II of 1948, the possession of the land in-question was taken on 09.01.1978 and the award was published on 22.03.2017.
10. Such contention is, however, opposed by Mr. Roy by saying that the said date is tentative since such date of award is differing from Page No. 18 of the report.
11. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court is of considered view that it is undisputed that the writ petitioner's land was requisitioned and acquisitioned under the provisions of Act II of 1948.

12. It is equally undisputed that during the lifetime of Act II of 1948 even during the lifetime of the amendment Act, no award was published.
13. Sufficient materials have been placed before this Court that the respondents/authorities have failed to comply with the provisions of Section 9(3A) and (3B) of Act I of 1894 and further the respondents/authorities also failed to publish the award within three years from the publication of notice under Section 4(1a) of Act II of 1948 as mandated under Section 7A of the Act II of 1948. Consequently, the said notice under Section 4(1a) of Act II of 1948 lapsed and as a result whereof the entire vesting proceeding stood vitiated.
14. Though Mr. Batabyal, learned advocate appearing on behalf of the respondent/State submits that award has been made but it appears to this Court that an effort was made on behalf of the respondent/State to publish the award in the year 2017 when neither Act I of 1894 nor Act II of 1948 was/were in force.
15. In view of such, this Court has got no hesitation to hold that the award as claimed to have been published by the respondents/authorities is no award in the eye of law because at that material time, the aforementioned two Acts have been repealed.
16. This Court thus finds no merit in the submission of Mr. Batabyal, learned advocate appearing on behalf of the respondent/State that there was laches and delay on the part of the writ petitioner in approaching this Court inasmuch as the respondents/authorities have miserably

failed to substantiate that during the lifetime of the aforementioned two Acts i.e., Act I of 1894 and Act II of 1948 they have made any endeavour to disburse compensation in terms of the award under the said two Acts.

17. In view of the discussion made hereinabove and in view of the fact that the land of the writ petitioner has been materially utilized by the respondents/authorities for a considerable length of time, this Court while disposing the instant writ petition directs the respondents/authorities, more specifically, the respondent no. 2/authority to initiate a fresh land acquisition proceeding under Act XXX of 2013 and shall complete such acquisition proceeding including disbursement of adequate compensation in terms of the provisions of Act XXX of 2013 within 180 working days from the date of communication of the server copy of this order.
18. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent no. 2/authority forthwith.
19. The respondent no. 2/authority is directed to act on the basis of the server copy of this order.
20. The time limit as fixed by this Court is mandatory and peremptory.
21. With the aforementioned observations, the instant writ petition being **WPA 16715 of 2023** is disposed of.

22. 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.)