
(2015) 03 CAL CK 0012
In the Calcutta High Court
Case No : Writ Petition No. 5413(W) of 2003

Bhabatosh Das

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 11-03-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 11A, 12, 31(2), 4, 6

Citation : (2015) 4 WBLR 184

Hon'ble Judges : Ranjit Kumar Bag, J.

Bench : Single Bench

Advocate : Satyajit Mandal, Amar Nath Sen and Sukumar Bhunia, for the Appellant

Final Decision : Allowed

Judgement

Ranjit Kumar Bag, J.—The writ petitioner is the owner of bastu, land measuring about 23 decimal, pertaining to Plot No. 1325, Khatian No. 399/1, J.L. No. 103, Mouza - Purba Srikrishnapore, Police Station - Sutahata, District - Purba Medinipore.

2. The District Magistrate and Collector, Medinipore, acquired the said land on 07.03.1997 by issuing notification under Section 4 of the Land Acquisition Act, 1894. The petitioner was served with a notice dated 11.03.2003 for collection of the amount of compensation. It is alleged that the award of compensation was not given by the Land Acquisition Collector within a period of two years from the date of publication of the declaration about acquisition of the said land. Accordingly, the petitioner has prayed for cancellation of the order of acquisition of the said land and other ancillary reliefs.

3. The respondents No. 1, 2, 3 and 4 have filed affidavit-in-opposition which is on record. The petitioner has submitted the affidavit-in-reply which is also on record.

4. None appears on behalf of the respondents No. 1, 2, 3 and 4 today.

5. I have heard the learned Counsel appearing for the respondents No. 5 and 6 viz. The Haldia Development Authority and the Chief Executive Officer, Haldia Development Authority.

6. Learned Counsel appearing for the petitioner has referred to annexure "R1" to the affidavit-in-opposition and submits that the publication of the declaration for acquisition of the land in question was made by the District Magistrate and Collector, Medinipore on 07.03.1997, which is a notification under Section 4 of the Land Acquisition Act, 1894. By referring to Annexure-"R2" to the affidavit-in-opposition, learned Counsel further submits that the award of compensation was deposited with the learned District Judge, Purba Medinipore, by the Land Acquisition Collector, Haldia, Purba Medinipore on 18.01.2007 i.e. long after almost ten years from the date of publication of the declaration. According to the learned Counsel for the petitioner the award of compensation was not made within a period of two years from the date of publication of declaration for acquisition of land and as such the entire proceeding for acquisition of the land will lapse as per provision of Section 11A of the Land Acquisition Act, 1894.

7. On my query, learned Counsel, representing the respondents No. 5 and 6, could not show from the materials on record that the award was made by the Land Acquisition Collector within a period of two years from the date of publication of the declaration for acquisition of the land in question.

8. Having heard the learned Counsel appearing for the petitioner and respondents No. 5 and 6 and on consideration of the materials on record, I find that the land of the petitioner was acquired by the District Magistrate and Collector, Medinipore, by publication of the declaration i.e. notification under Section 4 of the Land Acquisition Act, 1894 on 07.03.1997. The District Magistrate and Collector, Medinipore, also made publication of the declaration by issuing personal notice under Section 6 of the Land Acquisition Act, 1894 on 06.04.1998, which is part of Annexure-"R1" to the affidavit-in-opposition submitted by the respondents No. 1, 2, 3 and 4.

9. Learned Counsel appearing on behalf of the respondents No. 5 and 6 has referred to the notice dated 11.03.2003, issued under Section 12 of the Land Acquisition Act, 1894, which is Annexure-"P7" to the writ application and submits that the award was made on 21.03.2003. Even assuming for the argument's sake that the award was made on 21.03.2003 in connection with the acquisition of the land of the petitioner, the said award was made beyond the period of two years from the date of publication of the declaration about acquisition of the land which was made on 07.03.1997. However, it appears from the Annexure "R2" to the affidavit-in-opposition that the Land Acquisition Collector, Haldia, Purba Medinipore, deposited the award of compensation in the office of the learned District Judge, Purba Medinipore, on 18.01.2007 under Section 31(2) of the Land Acquisition Act, 1894. Since the award in connection with the acquisition of land of the petitioner was made beyond the period of two years from the date of publication of the declaration about acquisition of land, the entire proceedings for

acquisition of land of the petitioner shall lapse as per dictum of the provision of Section 11A of the Land Acquisition Act, 1894.

10. Accordingly, acquisition of land, measuring about 23 decimal out of 44 decimal, pertaining to Plot No. 1325, Khatian No. 399/1, J.L. No. 103, Mouza-Purba Srikrishnapore, Police Station - Sutahata, District - Purba Medinipore, belonging to the petitioner by the District Magistrate and Collector, Medinipore under notification dated 07.03.1997 and 06.04.1998 and the necessary follow-up action with regard to the said acquisition of land are quashed.

11. The writ application is, thus, allowed.

12. There will be no order as to costs.

13. Let a copy of this judgement and order be sent down to the respondent No. 4 i.e. Land Acquisition Collector for favour of information and necessary action.

14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.