
(2018) 05 CAL CK 0141
In the Calcutta High Court
Case No : Writ Petition4615 (W) of 2018

Shiv Kumar Agarwal And Others.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 07-05-2018

Acts Referred:

Citation : (2018) 05 CAL CK 0141

Hon'ble Judges : HARISH TANDON, J

Bench : Single Bench

Advocate : Kishore Mukherjee, Soumitra Bandyopadhyay, Priyabrata Batabyal, Aniruddha Sarkar, Md. Salamuddin

Final Decision : Disposed Of

Judgement

It is not in dispute that the petitioners have approached the civil court for declaration of their right, title and interest in respect of the acquired property and an application for restoration of the said suit, which was dismissed for default, is still pending. It appears that a large track of land was acquired by the National Highways Authority under the National Highways Act, 1956. Some of the land owners came to this Court and in a writ petition filed by Sri Bharat Sharma being WP 6615(W) of 2017, this Court passed the following directions:

Accordingly, the writ petition is disposed of with the following directions:

(a) Notice at Annexure P/4 stands quashed. Because it is non statutory in nature, no effect is given thereto;

(b) Respondent no. 3 shall proceed once again from the State of 3(G)(1) and shall hear all persons concerned including the writ petitioner as also any

person claiming to be interested in the said land, be it a plaintiff in the suit which

is pending or anyone else;

(c) If such notice is issued, he shall proceed in accordance with law to determine the compensation and in case he finds there is any application for

apportionment, he shall consider it and dispose of the same in accordance with law.

(d) The entire exercise shall be completed within a period of twelve weeks from the date of communication of this order.

(e) In the event it is found that the writ petitioner is entitled to some money or any amount or any other person is entitled to any money as a result of

above consideration and disposal, such money shall be paid within a further period of four weeks from date of taking such decision as indicated in

clause (c) above;

(f) Any payment made, it is needless to say, shall be subject to result of any pending civil suit which may bind the writ petitioner and/or respondent or

any of them.â??

It is not in dispute that the petitioners filed an objection before the competent authority claiming to have title in respect of the portion of the acquired

land and such objection has not been considered and determined finally. Learned advocate on behalf of the State respondents submits that in

compliance of the aforesaid direction in the said writ petition, the competent authority is in seisin of the matter and has not decided it finally.

Since the objection has been filed and on record, it is presumed that the said authority shall consider the claim of the petitioners before bringing the

said proceeding to its logical end. The authority is directed to permit the petitioners to participate in the said proceeding and give fair opportunity of

hearing before a final decision is taken in terms of the directions passed by this Court. With these directions, the writ petition is disposed of. There

shall, however, be no order as to costs.