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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1531/2023
IA NO: GA/1/2023
ADITYA ALMAL AND ANR.

VS

THE FIRST LAND ACQUISITION COLLECTOR, KOLKATA AND ANR.

BEFORE :

THE HON'BLE JUSTICE SUVRA GHOSH

DATE : 1ST FEBRUARY, 2024

Appearance

Mr. Arijit Bardhan, Adv.

Mr. Soumyajit Mishra, Adv.

Mr. Rishav Dutta Gupta, Adv.

...for petitioners

Mr. Pantu Deb Roy, A.G.P.

Mr. T.M. Siddique, A.G.P.

Mr. Subrata Guha Biswas, Adv.

...for respondent

Mr. Alak Kr. Ghosh, Adv.

Mr. Swapan Kr. Debnath, Adv.

...for K.M.C.

Ms. Noelle Banerjee, Adv.

...for State.

GA/1/2023

The Court :- Heard learned counsels for the parties.

The applicant seeks to be added as a party respondent to the writ petition on the ground that since there was an initial appointment of an arbitrator who decided the amount of compensation to be paid to the petitioner, subsequent appointment of arbitrator is not tenable in law. Also, in the event the amount of compensation is enhanced in arbitration, the applicant who is the beneficiary has to bear the



additional burden.

Learned counsel for the State respondents does not raise any objection to the application.

Vehemently opposing the application, learned counsel for the petitioners places reliance on the authority in *W.B.State Warehousing Corpn v.Indrapuri Studio (P) Ltd.* reported in (2010) 14 SCC 285 and submits that the beneficiary has no right whatsoever in the matter of appointment of an arbitrator, reference of a case to the arbitrator or participating in the arbitration proceedings.

The relevant portion of the judgment is set out hereinbelow :

- 13) *“At the commencement of the proceedings before the arbitrator, the State Government and the person entitled to receive compensation are required to state their respective opinions as to the fair amount of compensation [Section 11(1)(d)]. Thereafter, the arbitrator has to determine the amount of compensation keeping in view the matters enumerated in clauses (a), (b) and (c) of Section 12. Once the award is made and signed, the arbitrator has to inform the parties to the reference by sending a notice in writing and also send copies of the award to the Collector and the person or persons interested (Rule 13).*
- 14) *What is most significant to note is that neither at the stage of fixing the amount of compensation by agreement nor at the time of appointment of arbitrator, the State Government is required to consult any person including beneficiary of the requisition. The only person with whom the State Government is required to negotiate the amount of compensation is the one whose premises are requisitioned. An application for reference of the case to the arbitrator can*



be made only by a person who was a party to the unsuccessful exercise undertaken for fixing the amount of compensation by agreement. If the State Government nominates a person having expert knowledge as to the nature of the requisitioned premises to assist the arbitrator, a corresponding right is available to the person whose premises are requisitioned to nominate an assessor.

- 15) *In terms of Section 11(1)(d), only the State Government and the person to be compensated have the right to state their respective opinions as to the fair amount of compensation. The person to whom the requisitioned premises are transferred has no role in any one of these matters. The use of expression “the person to be compensated” in clauses (c) and (d) of Section 11(1) clinches the issue. A person like the appellant certainly does not fall in the category of the person to be compensated.*
- 16) *As a sequel to the above, it must be held that a person for whose benefit the premises are requisitioned or to whom the requisitioned premises are transferred does not have any locus to participate in the process of determination of compensation by agreement, or in the matter of appointment of an arbitrator or reference of case to the arbitrator or nomination of an assessor. A person like the appellant can neither submit opinion under Section 11(1)(d) as to the fair amount of compensation nor the arbitrator is obliged to give notice and opportunity of hearing to such person under Section 11(1)(e) read with Sections 12(a),(b) or (c). Therefore, such person is neither entitled to copy of the award as of right nor can he challenge the award by filing an appeal under Section 11(1)(f) and the High Court did not commit any error by declaring that the appeal filed by the appellant was not maintainable.”*



In view of the above, this Court is inclined to hold that the applicant cannot be considered to be a necessary or proper party to the writ petition. The applicant, being a beneficiary, has no locus standi to participate in the writ petition seeking appointment of an arbitrator in terms of section 11 of the Act of 1947. The application, being devoid of merits is liable to be rejected.

Consequently, GA/1/2023 is rejected.

There shall, however, be no order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

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Heard learned counsels for the parties.

List the matter under the same heading on 22nd February, 2024.

(SUVRA GHOSH, J.)

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