

ITEM NO.7

COURT NO.12

SECTION X

S U P R E M E      C O U R T   O F   I N D I A  
R E C O R D   O F   P R O C E E D I N G S

WRIT PETITION (CIVIL) NO(s). 138 OF 2010(FOR PREL.HEARING)

ABHIJIT SARDAR

Petitioner(s)

VERSUS

STATE OF WEST BENGAL &amp; ORS.

Respondent(s)

(With appln.(s) for exemption from filing O.T.)

Date: 19/04/2010      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Mr.Sunil Kumar, Sr.Adv.  
Mr.Sadhan Roy Chowdhary, Adv.  
Mr.Hiren Dasan, Adv.  
Mr.Dhirendra Kr.Mishra, Adv.  
Ms.Shreejata Dutta, Adv.  
Mrs Sarla Chandra,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

In this petition filed under Article 32 of the Constitution,

the petitioner has made the following substantive prayers:

a) Issue Writ/Order/Direction            in the nature of prohibition upon the respondents from taking any step and/or further step in the land acquisition proceeding initiated by them;

b) Issue Writ/Order/Direction            in the nature of mandamus upon the respondents to rescind/cancel/withdraw            the            land acquisition proceeding and further to command them to act and proceed strictly in

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accordance with law;

c) Issue writ/order/direction            in the nature of certiorari upon the respondents to produce and/or cause to be produced the entire records relating to initiation, continuation and culmination of the land acquisition proceeding and on such production being made, render conscionable justice by quashing the same;

We have heard Shri Sunil Kumar, learned senior counsel appearing for the petitioner and perused the record. In our view, the writ petition deserves to be dismissed for more than one

reasons which are enumerated below :-

1. The petitioner has not disclosed as to when the final declaration was issued under Section 6 of the Land Acquisition Act, 1894 and when was the award passed though, at the hearing, learned counsel for the petitioner made a statement that final declaration was published and the award has also been passed.

2. The petitioners have not questioned the final declaration and award which, according to the learned counsel, have already been issued/passed.

3. In letter dated 28.4.2008(Annexure-P2) sent to the Land Acquisition Collector, South 24 Parganas, Alipore, Kolkata, the petitioners had claimed that there was no justification for acquisition of the land and if their grievance was not remedied, they would be compelled to approach the High Court. However, instead of moving the High Court, they have filed writ petition under Article 32 of the Constitution. The only

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reason given by the petitioner for directly moving this Court is that as per the cause list of the Calcutta High Court, there is no possibility of early hearing of the writ petition. By no stretch of imagination, this can be a justification for entertaining a petition under Article 32 of the Constitution.

The Writ Petition is accordingly dismissed.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master