

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 570 of 2022

1. Shri P. Kamkholal aged about 65 years, S/o (L) Hemtinthang, resident of Lingsiphai village, P.O. & P.S. Churachandpur, District Churachandpur, Manipur-795128.

.....PETITIONER

-Versus-

1. The Union of India represented by the Secretary, Ministry of Road Transport and Highways, Govt. of India, Transport Bhawan 1, Parliament Street, New Delhi - 110001.
2. The Deputy Commissioner, Churachandpur, Office at Mini Secretariat, Churachandpur, P.O. & P.S. Churachandpur, District Churachandpur, Manipur - 795128
3. The National Highways and Infrastructure Development Corporation (NHIDCL), represented by its General Manager (P), Branch Office -Imphal, Transit Hostel, Officer's Club, Lamphelpat, P.O.&P.S. Lamphel, District: Imphal West, Manipur - 795004;
4. The State of Manipur represented by Secretary (Revenue), Govt. of Manipur, Old Secretariat, Babupara, P.O.& P.S. Imphal, District Imphal West, Manipur - 795001.

.... RESPONDENTS.

-BEFORE-

HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN

For the Petitioner	::	Mr. L. Shashibhushan, Sr. Adv.
For the Respondents	::	Mr. Sh. Shyam Sharma, GA for R-2 and R-4. Mr. S.Vijayanand Sharma, Sr.PCCG for R-1 and R-3
Date of Hearing and Judgment & Order	::	24.08.2023.

JUDGMENT AND ORDER
(ORAL)

Heard Mr. L. Shashibhushan, learned senior counsel for the petitioner; Mr. S. Vijayanand Sharma, learned Sr. PCCG for the Union of India and Mr. Sh. Shyam Sharma, the learned Government Advocate for the State respondents.

2. This writ petition has been filed by the petitioner for direction to the first respondent to pay the compensation amount for acquisition of his land measuring an area of 0.090168 hectare out of the plot of land in pursuance of the notification dated 20.2.2020 or in the alternate to direct the second respondent to refer the dispute to the Court of District & Sessions Judge, Churachandpur, to decide as to whom the compensation amount as determined in the award dated 3.10.2020 is to be paid.

3. Mr. L. Shashibhushan, the learned senior counsel for the petitioner submitted that the petitioner is the absolute owner and possessor of the piece of homestead land bearing new patta No.80/929 covered by C.S. Dag No.3314, 3381 having an area of 0.66 acre which is equivalent to 0.267093 hectare of Village No.58, Lingsiphai, Churachandpur District, over which the petitioner has constructed his residential house and has been living since the year 1991. The aforesaid land is situated just adjacent to NH-102B which runs from Imphal to Tuvai in Mizoram State through the village where the petitioner and other family members reside.

4. The learned senior counsel further submitted that the first respondent for the purpose of widening NH-102B in the stretch of land from Churachandpur, Km 0.00-141.029 decided to acquire the land measuring an area of 22999806.28 sq. ft. in a phased manner. The land of the petitioner falls in the first phase and that the first respondent issued a notification dated 20.2.2020 under Section 3(1) of the National Highways Act, 1956 declaring its intention to acquire the land with or without structures falling within Km 0 to Km 13.747. A portion of the land belonging to the petitioner which was intended to be acquired is included at Serial No.5 under Survey/Plot No.12 of Lingsiphai Village. After issuance of the notification dated 20.2.2020, the first respondent through the

second respondent caused survey of the land intended to be acquired by making necessary enquiry. After conducting enquiry and taking measurement of the land, including that of the petitioner whose area of land measuring 0.090168 hectare was found to be affected by the said project, sought to be acquired and in the process, the second respondent called for objections from the affected land owners and after hearing and disposing of the objections, submitted a report to the first respondent.

5. According to the learned senior counsel for the petitioner, the first respondent after the receipt of the report from the second respondent issued a notification dated 15.5.2020 declaring that the land with or without structures whose description are given in the scheme to the notification and falling within NH-102B in the stretch of land Km 0 – Km 13.747 in Churachandpur District should be acquired. The notification 15.5.2020 further states that on publication of notification in the official Gazette, the land specified in the schedule to the notification shall absolutely vests with the first respondent.

6. The learned senior counsel further submitted that in the notification dated 15.5.2020, the aforesaid area of the land measuring 0.090168 hectare belonging to the petitioner was

wrongly included in the area of the land sought to be acquired from one Khuplianmang who is the Chief of Lingsiphai Village. On coming to know that the said area has been wrongly included in the name of Khuplianmang and the petitioner's name not included in the notification, the petitioner approached the competent authority i.e. the second respondent and informed about the wrong inclusion of the aforesaid area as belonging to Khuplianmang. The second respondent informed the petitioner that he will conduct re-survey of the said area and necessary corrections will be made accordingly.

7. The learned senior counsel next submitted that subsequent to the issuance of the notification dated 15.5.2020, the second respondent issued another notification dated 31.8.2020 calling for claims from the land owners or persons interested in the land mentioned in the schedule given to the notification within 15 days from the date of publication of the notification. The said notification further called upon all the persons interested to submit their claims in the said land, their share, area of the land, any assets attached thereto i.e. structures/trees etc. and also to furnish particulars of their bank accounts to which the compensation amount to be credited. Pursuant to the notification dated 31.8.2020, the land owners have submitted their claims and particulars of their bank accounts so as to enable the second

respondent to determine the amount payable as compensation for the land as well as for structures/trees etc.

8. The learned senior counsel submitted that after the expiry of the period stipulated in the notification and after consideration of the claims made by the land owners, the second respondent determined the amount payable as compensation to the land owners and published the award dated 3.10.2020. He would submit that the petitioner came to know that portion of the land measuring 0.090168 hectare included in the award dated 3.10.2020 was marked as disputed one for the reasons best known to the second respondent. Accordingly, on 18.11.2020, the petitioner submitted a complaint to the Sub-Divisional Officer, Churachandpur stating that the land is standing in his name and he has been in possession of the same since the last 28 years without any objection and he is the owner and right person to receive the compensation. Despite receipt of the complaint and also several requests made by the petitioner in person, the second respondent failed to pay the compensation amount awarded under award dated 3.10.2020 for the portion of the land measuring 0.090168 hectare belonging to the petitioner, nor was referred the dispute to the District & Sessions Judge, Churachandpur.

9. The learned senior counsel submitted that again on 3.9.2021, the petitioner filed another complaint before the Sub-Divisional Officer, Churachandpur reiterating the facts stated in the complaint dated 18.11.2020. Despite receipt of the said complaint dated 3.9.2021, the second respondent has failed to pay the compensation amount nor referred the dispute to the civil court, which necessitated the petitioner in filing the present writ petition. Thus, a prayer has been made to pay the compensation amount in respect of the land measuring an area of 0.090168 hectare to the petitioner or in the alternate direct the second respondent to refer the dispute to the civil court.

10. Admittedly, the land measuring an area of 0.090168 hectare referred to in the writ petition has been marked as “disputed one” in the award dated 3.10.2020.

11. Section 3H(4) of the National Highways Act, 1956 provides that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

12. According to the petitioner, he is the owner of the land measuring an area of 0.090168 hectare. However, it has been wrongly included in the area of the land sought to be acquired from one Khuplianmang. After coming to know the wrong inclusion, the petitioner has submitted two complaints before the Sub-Divisional Officer, Churachandpur. According to the petitioner, despite receipt of the said complaints, the said authority has not referred the dispute to the civil court.

13. On a perusal of the award dated 3.10.2020, this Court finds that against the land measuring an area of 0.090168 appeared at Serial No.106 bearing Plot No.NNP-12X situated at Lingsiphai Village, it has been marked as “dispute”. As stated supra, when the authority concerned finds dispute in the land in question, as per Section 3H(4) of the National Highways Act, 1956, the authority has to refer the dispute to the civil court. However, in the case on hand, the Land Acquisition Officer has failed to do so.

14. Considering the facts and circumstances of the case and also the fact that the land in question has been marked as “dispute” by the authority concerned in the award, this Court is of the view that this is a fit case to direct the respondents to refer the dispute to the civil court for a decision.

15. In the result,
- (i) The writ petition is disposed of.
 - (ii) The authority concerned is directed to refer the dispute/matter for a decision to the District & Sessions Judge, Churachandpur, which is the Principal Civil Court of original jurisdiction within the limits of the jurisdiction of the land in question for decision.
 - (iii) Upon reference by the respondent authorities, the Principal Civil Court is directed to decide the dispute and/or issue in accordance with law after affording reasonable opportunity to the parties concerned.
 - (iv) No costs.

ACTING CHIEF JUSTICE

FR/NFR

Sushil