

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

WP(C)No.903 of 2021

Mr. Thangonlung Kamei, aged about 53 years, S/O Gaijoun Kamei, a resident of Namthanjang Rongmei, PO Lanjing, P. S New Keithelmanbi, Kangpokpi District, Manipur- 795113 & **53 Ors.**

...Petitioners

– Versus –

1. The State of Manipur through the Commissioner(Works), Government of Manipur, Manipur Secretariat, PO & PS Imphal, Imphal West District, Manipur-795001 & **4 Ors.**

....Respondents.

BEFORE

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

JUDGMENT & ORDER
(Ora)

21.03.2023

1. This writ petition has been filed by the petitioners for issuance of a writ of mandamus directing the respondents to ensure that compensation for acquisition of the land in respect of common village land of Namthanjang Rongmei Village for widening of Imphal-Jiribam Road (NH-37) to 4-lane is equally

distributed to the petitioners by considering the representation of the petitioners dated 17.11.2021.

2. Heard Mr. M. Rakesh, learned counsel for the petitioners; Mr. Phungyo Zingkhei, the learned Government Advocate for the respondents 1 to 3; Mr. S. Vijayanand Sharma, learned Sr. PCCG the learned counsel for the fourth respondent and Mr. D. Julius Riamei, the learned counsel for the fifth respondent.

3. The case of the petitioners is that a huge portions of land starting from BRTF camp to Phirup Khumbi Lok comprising both individual as well as common village land of Namthanjang Rongmei village under Kangchup Geljang Sub-Division, Kangpokpi District were adversely affected by the widening of NH-37 of Imphal-Jiribam from Km 11.522 to Km 45.785. During the joint survey, the respondent authorities informed the petitioners that the entire compensation amount for acquisition of both the common village land as well as the private land shall be transferred to the bank account of the fifth respondent, who is the Ex-Chief/Khullakpa of Namthanjang Rongmei village and all the matters related to compensation of land shall be deal only through the fifth respondent.

4. Further case of the petitioners is that Namthanjang Rongmei village is comprises about 70 households with a population of more than 500. The petitioners comprising more than 54 households are very much aggrieved with the proposal of the respondents 2 and 3 that the entire compensation amount for acquisition of both common village land and private land shall be handed over to the fifth respondent and that all matters to be communicated through the fifth

respondent without any reasonable grounds. Aggrieved by the same, the petitioners have submitted a representation on 17.11.2021 to the second respondent requesting him to give the land compensation in regard to the acquisition of common village land to the general public of the village. If the compensation of common village land is given to the fifth respondent and their group, the petitioners have an apprehension that they will not share the compensation amount and dishonestly take away all the money for themselves. Despite receipt of the representation, the same has not been considered till date. Hence, the petitioners have filed the present writ petition.

5. Resisting the writ petition, the respondents 2 and 3 filed affidavit-in-opposition stating that the respondent officials did not inform the petitioners that the entire compensation amount for acquisition of both the common village land as well as the private land shall be transferred to the bank account of the fifth respondent. However, all the matters related to compensation are communicated through the fifth respondent, as he is the Chief of the said village. Since the land of the said village is not surveyed land, it will be convenient to give the compensation either to the account of the Chief/Khullakpa or to the joint account of a committee formed under the supervision of the Chief of the village. It is stated that since the Chief is the owner of the common village land, the authority concerned face difficulties to take action for giving compensation directly to the villagers. As per the official up to date record, the fifth respondent is presently working as the Chief/Khullakpa of Namthanjang Rongmei village and there is no fraudulent claim from his side regarding the taking of compensation. The process

of giving the compensation is done as per law of the land and not in the interest of a private individual or group of persons. Hence, prayed for dismissal of the writ petition.

6. The fourth respondent filed affidavit-in-opposition stating that presently the fourth respondent is implementing 2-lane work of Imphal-Jiribam road in Namthangjang Rongmei village named Package-II and 3D notification for the land form Km 17.52 to Km 45.785 in Namthanjang had been approved by the MoRTH. The joint survey for 4-laning with paved shoulder of Imphal-Jiribam Section (Pkg-1) from Km 11.522 to Km 45.785 of NH-37 in the State of Manipur vide order dated 31.5.2019 of the SDO, Kangchup Geljang had been postponed on 14.6.2019 vide order dated 12.6.2019. The joint survey had been conducted from 18.7.2019 onwards for the said 4-laning of Imphal-Jiribam Road and later on 4-lane alignment and bye-pass had been cancelled by the headquarter of the fourth respondent. The fourth respondent site engineer and DPR consultant M/s.CE Testing had attended the joint survey from 21.4.2021 and shown the required ROW for construction of proposed 2-lane road. As such 1.74 Ha. of land pertaining to Namthanjang village under sub-division was affected by widening NH-37 Imphal-Jiribam from Km 17.522 to Km 45.785. It is stated that the fourth respondent has no role in deciding the person for the post of Chiefship/Khullakpa of Namthanjang Rongmei village and the fourth respondent is only the project implementation unit, but not an authority for land acquisition. Hence, prayed for dismissal of the writ petition.

7. The fifth respondent filed affidavit-in-opposition stating that the petitioners are not from Namthanjang village and, as such, have no locus standi in the affairs of the Namthanjang village. The petitioners have no right whatsoever in the lands of Namthanjang Rongmei village leave alone claiming any rights, interest, title or compensation in respect of lands or any other properties of Namthanjang Rongmei village. No cause of action arose for filing the present writ petition. In the land acquisition proceedings in question, there were 16 individual households whose properties (house structures) are affected and those households shall be individually entitled for compensation and for other lands or properties affected in respect of Namthanjang Rongmei village, the fifth respondent is the sole interested party. Hence, prayed for dismissal of the writ petition.

8. The learned counsel for the petitioners submitted that the lands starting from BRTF Camp to Phirup Khumbi comprising both individual as well as the village land of Namthanjang Rongmei village under Kangchup-Geljang subdivision was affected by widening of NH-37 of Imphal-Jiribam from Km 11.522 to Km 45.785. The petitioners comprising 54 households are very much aggrieved with the proposal of the respondent authorities that the entire compensation amount for acquisition of both common village land and private land shall be handed over to the fifth respondent, who is not even the Chief/Khullakpa of Namthanjang Rongmei village. In this regard, the petitioners have submitted a representation dated 17.11.2021 to the second respondent stating their

grievances and requested to give the land compensation in regard to the acquisition of common village land to the general public of the village.

9. The learned counsel further submitted that if the compensation amount of common village land is given to the fifth respondent and his group, the petitioners have an apprehension that they will not share the compensation amount and dishonestly take away all the money for themselves.

10. Adding further, the learned counsel submitted that earlier the fifth respondent misappropriated the village funds, as a result of which, there was conflicts between the villagers. In fact, the fifth respondent left the village and settled elsewhere and when the village authority was elected, he returned to the village and fraudulently claiming to be the Chief/Khullakpa of Namthanjang Rongmei village with an intention to dishonestly take away the compensation amount. Since the petitioners have reasonable apprehension that the second respondent may give away the compensation for acquisition of common village land of Namthanjang Rongmei village to the fifth respondent and their party, the petitioner has filed the present writ petition.

11. The learned Government Advocate appearing for the respondents 1 to 3 submitted that there is no proposal for handing over the entire compensation for acquisition of both common village land and private land to the fifth respondent. He would submit that since the Chief is the owner of the common village land, it is very difficult for the authorities to take action for giving compensation directly to the villagers.

12. The learned Government Advocate further submitted that as per the record, the fifth respondent is the Chief/Khullakpa of Namthangjang Rongmei village and there is no fraudulent claim from the fifth respondent regarding the taking of compensation and that the process of giving compensation will be done as per law and not in the interest of a private individual or group of persons.

13. The learned counsel for the fourth respondent submitted that the fourth respondent has no role in deciding the person for the post of Chief/Khullakpa of Namthangjang Rongmei village and the fourth respondent is only project implementation unit and not an authority for land acquisition. The payment of land compensation is liable to be made by the concerned Deputy Commissioner (CALA) based on the details of the beneficiaries.

14. The learned counsel for the fifth respondent submitted that the petitioners are not villagers of Namthangjang Rongmei village and their lands are not affected by the widening of NH-37 from Imphal to Jiribam. On the other hand, it is the fifth respondent and his villagers lands which are affected by the widening of the said road. The petitioners are outsiders and they had no locus standi in the affairs of the Namthangjang Rongmei village. The petitioners are attempting to mislead this Court by suppressing the true facts.

15. The learned counsel would submit that the fifth respondent is the hereditary Chief/Khullakpa of the village, a hill house tax paying village recognized

by the State Government of Manipur. The petitioners have no right in the lands of Namthanjang Rongmei village. Even assuming without admitting that the petitioners have locus standi to seek the relief prayed for in the writ petition, the process of land acquisition in question is under process. In the land acquisition proceedings in question, there are 16 individual households whose properties are affected and those households shall be individually entitled for compensation. However, for the other lands or properties affected in respect of Namthanjang Rongmei village, the fifth respondent is the sole interested party. Arguing so, the learned counsel prayed for dismissal of the writ petition.

16. This Court considered the rival submissions and also perused the materials available on record.

17. The grievance of the petitioners is that Namthanjang Rongmei village is comprised about 70 households with a population of more than 500 and the petitioners comprising more than 54 households are very much aggrieved by the proposal of the respondents 2 and 3 that the entire compensation amount for acquisition of both common village land and private land shall be handed over to the fifth respondent, who is stated to be the Chief/Khullakpa of Namthanjang Rongmei village. In this regard, the petitioners have submitted a representation on 17.11.2021 and despite receipt of the said representation, the second respondent is attempting to hand over the compensation for the common village land to the fifth respondent and also informed that all matters are to be communicated through the fifth respondent. According to the petitioners, if

compensation amount in respect of the common village land is handed over to the fifth respondent and his group, the petitioners have an apprehension that they will not share the compensation amount and they will take away all the amount for themselves.

18. The very apprehension expressed by the petitioners has been refuted by the official respondents, particularly the respondents 2 and 3 by contending that there is no proposal for handing over the entire compensation for acquisition of both common village land and the private land to the fifth respondent. Further, as per the record maintained, the fifth respondent is the Chief/Khullakpa of Namthanjang Rongmei village and since the village Chief is the owner of the common village land, the authority concerned would face difficulties for giving compensation directly to the villagers.

19. On the other hand, the contesting fifth respondent contended that the petitioners are not villagers of Namthanjang Rongmei village and their lands are not affected by the widening of NH-37 from Imphal to Jiribam and that the petitioners are outsiders and they have no locus standi in the affairs of the Namthanjang Rongmei village. Further, in the land acquisition proceedings in question there are 16 individual households whose properties are affected and those households shall be individually entitled for compensation respectively. However, for the other lands or properties affected in respect of Namthanjang Rongmei village, the fifth respondent is the sole interested party.

20. As could be seen from the pleadings of the parties, the respondent authorities are taking steps to acquire a huge portions of land starting from BRTF camp to Phirup Khumbi Lok comprising both individual as well as common village land of Namthanjang Rongmei village under Kangchup-Geljang Sub-Division, Kangpokpi District for widening of NH-37 of Imphal-Jiribam from Km 11.522 to Km 45.785. The petitioners are claiming that in respect of the common village land, the compensation has to be paid to them and not to the fifth respondent, who is not at all Chief/Khullakpa of Namthanjang Rongmei village. Further, there appears to be a rival claim in respect of the common village land of Namthanjang Rongmei village.

21. It is pertinent to note that since the petitioners claimed that the compensation in respect of the common village land is to be paid to them and not to the fifth respondent and the fifth respondent claimed that the petitioners are no way connected with the common village land of the acquired land, this Court is of the view that it would be appropriate to refer the dispute to the decision of the civil court by the competent authority as mandated under Section 3H(4) of the National Highways Act, 1956, which reads thus:

“3H. Deposit and payment of amount. –

(1) to (3)

(4) 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.”

22. In the light of the mandate stipulated under Section 3H(4) of the National Highways Act, 1956, this is a fit case for the competent authority to refer the dispute to the civil court for decision qua the entitlement and/or apportionment of the compensation amount to be paid in respect of the common village land involved in this case.

23. Accordingly, the writ petition is disposed of with a direction to the competent authority to refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land in question is situated as provided under Section 3H(4) of the National Highways Act, 1956, within a period of two weeks from the date of receipt of a copy of this order. Upon reference being made by the competent authority, the concerned civil court is directed to resolve the dispute on merits and in accordance with law, as expeditiously as possible. No costs.

ACTING CHIEF JUSTICE

FR/NFR

John Kom