

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
CRP No.05 of 2023

Peerless Tea and Industries Limited, 240B AJC Bose Road, Kolkata, 700020.

..... Petitioner(s)

V E R S U S

1. Land Acquisition Collector, West Tripura, Government of Tripura,

2. The Union of India, represented by the DIG SHQ (North), BSF, Khashiyamangal, West Tripura, Under HQ FTR TC & M. Shalbagan, Agartala.

..... Respondent(s)

For Petitioner(s) : Mr. D.J. Saha, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, DSGI,
Mr. D. Sharma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment : *2nd August, 2023.*

Whether fit for reporting : NO

JUDGMENT & ORDER(ORAL)

Heard learned counsel for the petitioner and also heard learned counsel appearing for the respondents.

[2] By order dated 12.04.2022, Exe.(M) No.26 of 2014 was disposed of by the Executing Court of L.A. Judge, Court No.2, West Tripura, Agartala upon recording his satisfaction that the award has been wholly executed. The instant revision petition under Article 227 of the Constitution of India has been filed by the petitioner-land looser. The acquisition proceedings were undertaken in the year 1985. Thereafter, there has been lot of journeys up and down which has been duly chronicled in the impugned order dated 12.04.2022 which is extracted in extenso hereunder :

“Learned Advocate Mr. S. B. Debnath appearing for the award holder is present.

Learned Additional CGSC Mr. S. S. Datta appearing for the JD requiring department (Union Of India) is also present.

Learned GP Mr. S. Bhattacharjee appearing for the JD L.A. Collector is also present.

Heard both sides.

Perused the record.

The written objection so submitted by the JD requiring department on 17.12.2015 shows that a land measuring 123.24 acres of land were acquired for construction of BSF Battalion Head Quarters at Fatikchera. Out of said land a land measuring 119.01 acres of land was belonging to the DH. Accordingly the Collector has awarded an amount of Rs.12,78,252.58/-. At the instance of the DH matter was referred to the L.A. Judge, West Tripura vide Misc. L.A. 01 of 1991 and accordingly the L.A. Judge enhanced the amount of compensation at the rate of Rs.3,500/- per kani for tilla class of land and Rs.7,500/- for nal class of land vide award dated 12.02.1996. Since the JD requiring department was not made party to the said LA case, they preferred appeal vide Exe (M) 26 of 2014 FA 83 of 1998 before the Hon'ble Gauhati High Court, Agartala Bench. Hon'ble High Court vide order dated 19.02.2001 made in the said appeal has been pleased to remand back the said L.A. case. Thereafter the L.A. Judge, West Tripura vide award dated 23.08.2002 enhanced the amount of compensation to the tune of Rs. 4,21,262.75/- along with 9% interest and other incidental charges.

Being dissatisfied with the award dated 23.08.2002 the DH has preferred L.A. appeal No. 19 of 2002 before the Hon'ble Gauhati High Court, Agartala Bench. The JD requiring department has also preferred Appeal No. 01 of 2003 before the Hon'ble High Court.

Appeal so filed by the requiring department was admitted for hearing subject to deposition of 25% of the awarded amount with the registry of the High Court vide order dated 10.05.2004. Accordingly the requiring department has deposited an amount of Rs. 4,33,127/- with the registry of the Hon'ble High Court on 24.01.2005. Remaining 75% of the amount of award, i.e., Rs.12,99,379/- was also deposited by the JD requiring department with the registry of the Hon'ble High Court on 02.09.2005 in terms of the order dated 30.08.2005 made in CM Appeal (FA) No. 259/2005.

The appeal so filed by the JD requiring department was dismissed by the Hon'ble High Court vide order dated 10.12.2013. The appeal so filed by the DH was, however, allowed by the Hon'ble High Court enhancing the amount of award at the rate of Rs. 4,000/- per kani for tilla and Exe (M) 26 of 2014 lunga class of land, Rs. 10,000/- per kani for nal class of land and Rs. 8,000/- per kani along with 9% interest per annum and other statutory reliefs in terms of Section 23(1)(a) and 23(2) of the L.A. Act. The JD requiring department, therefore, deposited the enhanced compensation of Rs. 7,99,154/- with the LA Collector, West Tripura on 02.12.2014 vide demand draft bearing No. 555735, dated 22.11.2014.

What therefore, appears from the written objection so filed by the JD on 17.12.2015 that the JD requiring department has deposited the entire amount of award.

Accordingly, a copy of this order was supplied to the parties requiring them to appraise this court if entire award has been satisfied. But no steps taken in this regard.

Regard being had to such circumstances I am of the considered opinion that the award has been satisfied wholly. Accordingly, this execution proceeding stands disposed of.

Enter the result."

[3] The instant revision petition has been preferred by the petitioner *inter alia* taking the following grounds :

(A) For that the respondent No.1 has caused grievous damage to the rights and interests of the petitioner by submitting a false and factually incorrect compensation worksheet in the Ld. District Court on 2nd January, 2017, taken from the records of the respondent No.2 i.e. BSF;

(B) For that the petitioner submits that the Land Acquisition Act 1894 has now been substituted by the Right to Fair Compensation and Land Acquisition, Relief and Rehabilitation 2013, (RTFCLARR 2013) wherein enhanced solatium under the First Schedule of the RTFCLARR 2013 has been provided by the Government of India, for which the petitioner seeks their rightful claims;

(C) For that the petitioner seeks that the Court recognizes that the delay in making payment as per the High Court decree remains an absolute fault of the respondent, and since the old land acquisition act has been made invalid, the new rules of compensation for solatium may be rendered valid under Section 24 of RTFCLARR 2013 Act combined with the First Schedule of the RTFCLARR 2013. For that learned Court had hurriedly disposed of the matter and the petitioner could not explain the arrear unpaid by the respondent;

(D) For that the petitioner, having been left with no other option, would like to seek justice under section 24(2) of the RTFCLARR 2013, which indicates that any land acquisition under the Land Acquisition Act of 1894, where compensation has not been completely paid, or deposited with the court, then all acquisition proceedings will be cancelled, and fresh acquisition process will have to be started. The Supreme Court of India has already passed several judgments cancelling all LA proceedings if land compensation is not paid for more than five years, which the petitioner would like to submit during the course of hearing which are :

- (a) Supreme Court of India, order in ***Rattan Singh Vs Union of India*** vide CA 2851 of 2009 reported on 8th December, 2015;
- (b) Supreme Court of India judgment in ***Workers Friends Cooperative Building society Vs State of Punjab*** vide CA 8468 of 2015 reported on 12th October 2015;
- (c) Supreme Court of India judgment in ***Bhargava Associates Vs Union of India*** vide CA 5099 of 2008 reported on 10th March, 2015.

(E) For that the as per the judgment and order dated 10th December, 2013 in LA App No.19 of 2022 the office of the LA Collector has delayed filing their records of compensation payment made to the petitioner against land acquired despite order of the learned District Judge, time and time again for which the petitioner is now claiming for cancellation of acquisition proceedings and return of land under Section 24(2) of the RTFCLARR 2013;

(F) For that the petitioner submits that this delay by the office the LA Collector in verifying the compensation claim submitted by the petitioner is a harassment and a violation of the legal rights by the all powerful and super imposing State of Tripura due to which this petition is being filed for directions in the Hon'ble Court;

(G) For that unless an order is passed for execution of decree dated 9th July, 2014 and payment of compensation as per the claim submitted by the petitioner and/or return of the land within a reasonable time frame your

petitioner shall suffer irreparable loss and injury which otherwise cannot be compensated.

[4] Learned counsel for the petitioner at the outset contended that since the deposits of the award were not made within the stipulated period in terms of the acquisition under the old Act (LA Act of 1894), the acquisition should be declared as lapse under Section 24(2) of the Right to Fair Compensation and Land Acquisition, Relief and Rehabilitation 2013, (RTFCLARR 2013). In the grounds quoted above, the petitioner has also sought to raise the plea that the award has not been fully satisfied and unpaid arrears remain to be paid. Therefore, interference has been called for.

[5] Learned counsel for the State has filed a counter-affidavit in which the entire journey of the litigation has been narrated from paragraph 8 onwards. It is the case of the respondent-State that there is no question of declaration of the acquisition under the Act of 1894 as lapsed as the award amount had been deposited by the Collector in the Hon'ble Court. It is also evident that such a plea of lapse of acquisition is not tenable in law on part of the petitioner who has been prosecuting the execution case for execution of the same award. Moreover, it is also evident from perusal of the impugned order itself that the petitioner did not take any steps to point out any infirmity in the payment of compensation as per the written objection filed by the judgment debtor before the LA Court which was also supplied to the parties to apprise the Court if the entire award had been satisfied. The learned Court finding no objection to the satisfaction of the award proceeded to opine that the award has been satisfied wholly. Therefore, the execution proceedings were disposed of.

[6] Having considered the submission of the parties in the light of the material pleaded, the grounds taken by the petitioner, at this stage, in a petition under Article 227 of the Constitution of India, this court is of the opinion that it does not lie in the mouth of the petitioner who was the decree-holder or awardee to complain against the satisfaction of the award given the payments made from time to time in lieu of the acquisition of the land and as per the award rendered by the LA Court and thereafter upon further enhancement by the High Court earlier. The impugned order in fact refers to the chronology of events in detail and so has the counter-affidavit of the respondents from paragraph 8 onwards done so.

[7] Learned counsel for the petitioner has also not been able to demonstrate any infirmity in the computation and payment of compensation. In fact, no objection was either taken before the Executing Court to computation & payments shown by the Judgement Debtor. As such, this Court on none of the counts raised herein finds any substance in the revision petition. Accordingly, the same is dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH) CJ

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