

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.336 of 2023

1. Sri Subhash Debnath son of late Jogendra alias Jogesh Chandra Debnath, aged 68 years.

2. Sri Abinash Debnath son of late Jogendra alias Jogesh Chandra Debnath, aged 69 years.

Both are resident of 6/Mahadeb Para, Taranagar, Mohanpur, West Tripura, P.O. Mohanpur, P.S. Sidhai, Sub-Division- Mohanpur, District- West Tripura.

..... Petitioner(s)

V E R S U S

1. The State of Tripura to be represented by the Secretary, Revenue Department, Government of Tripura, New Secretariat Building, Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, Pin-799010.

2. The Competent Authority for NH-108B, (Additional DM & Collector, West Tripura, Agartala), O/o the DM & Collector, West Tripura, Agartala, Government of Tripura, Old Secretariat Building, Agartala, Pin-799001.

3. The District Magistrate & Collector, West Tripura, District, O/o the DM & Collector, West Tripura, Agartala, Government of Tripura, Old Secretariat Building, Agartala, Pin-799001.

4. The Sub-Divisional Magistrate, Mohanpur, West Tripura District, Government of Tripura, O/o- SDM, Mohanpur.

5. The LA Collector, Agartala, West Tripura, O/o- LA Collector, West Tripura, Office Lane, Agartala, Pin-799001.

6. Sri Sishu Debnath, S/o. Umesh Chandra Debnath, resident of Mohanpur, Taranagar, West Tripura, P.O. Mohanpur, P.S. Sidhai, Sub-Division- Mohanpur, District- West Tripura.

7. Sri Champak Debnath, S/o. Sribash Debnath, resident of Mohanpur, Taranagar, West Tripura, P.O. Mohanpur, P.S. Sidhai, Sub-Division- Mohanpur, District- West Tripura.

8. Sri Chitta Debnath, S/o. Amar Chand Debnath, resident of Mohanpur, Taranagar, West Tripura, P.O. Mohanpur, P.S. Sidhai, Sub-Division- Mohanpur, District- West Tripura.

.....Respondent(s)

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment : 31st May, 2023.

JUDGMENT & ORDER (ORAL)

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel for the petitioners.

[2] The present writ petition has been filed by the petitioners, Sri Subhash Debnath and Abinash Debnath, son of late Jogendra alias Jogesh Chandra Debnath the original awardee in LA Case No.01/ MNP/2020 in respect of which notice under sub-section (1) of 3H of The National Highways Act, 1956 was issued upon the awardees, namely, Rayati Chitta Debnath, son of Amarchand Debnath, Jogendra Chandra Debnath, son of Sashimohan Debnath and Umesh Chandra Debnath, son of Sashimohan Debnath of Mohanpur and one unregistered deed occupier Ram Kumar Das, son of Mahananda Das asking them to get compensation towards awarded value of Rs.77,19,974/-. Petitioners alleged that instead of disbursement of 1/3rd share of the award in favour of the petitioners, who are legal heirs of the original awardee Jogendra Chandra Debnath, son of Sashimohan Debnath, the entire amount has been disbursed to Sri Sishu Debnath, son of Umesh Chandra Debnath, Sri Champak Debnath, son of Sribash Debnath and Sri Chitta Debnath, son

of Amarchand Debnath vide letter No.9766/70 dated 18.06.2021 (Annexure-6) issued by the competent authority/Additional District Magistrate & Collector, West Tripura in connection with the same LA case. It is however also pointed out that the letter No.9766/70 dated 18.06.2021 shows that it is on the subject of Correction of Award No.10/NH-108B/20 dated 18.12.2020 under apportionment serial No.9/p & 9(A) of L.A Case No.1/MNP/2020 at Mouja Taranagar, Sheet No.5/p in respect of acquisition of land for upgradation of NH-108B from Agartala-Khowai under Mohanpur Sub-Division.

[3] Petitioners contend that they have a survival certificate issued by Sub-Divisional Magistrate, Mohanpur, West Tripura dated 31.12.2021 on death of their father (Annexure-3). Though no partition deed was made against the Rayati co-sharer in Khatian No.1496 but share of Ramesh Chandra Debnath was transferred to one Chitta Debnath, son of late Amar Chand Debnath by way of sale and for this reason in the finally published computerized Khatian No.1496, name of Ramesh Chandra Debnath was replaced by Chitta Debnath as co-sharer along with two others of late Jogendra alias Jogesh Chandra Debnath and Umesh Chandra Debnath of land measuring 2.18 acres recorded as joint owner and possessor of the said land. It is submitted that for upgradation of the NH-108B in the concerned section of Agartala-Khowai road, notice was issued on 09.12.2020 to the owners of Khatian No.1496 for acquisition of

portions of their land i.e. plot Nos.8808, 8809/P and 8803/P classified as tilla, measuring 0.09, 0.02 and 0.8799999 acres respectively (Annexure-4). Pursuant to the said notice, the award was published by the competent authority i.e. Additional District Magistrate & Collector, West Tripura amounting to Rs.77,19,974/- to the three Rayati land owners and one unregistered deed occupier-Ram Kumar Das, son of Mahananda Das. As such, Chitta Debnath, son of late Amarchand Debnath, Jogendra alias Jogesh Chandra Debnath, son of late Sashimohan Debnath and Umesh Chandra Debnath, son of late Sashimohan Debnath were entitled to get $\frac{1}{3}^{\text{rd}}$ amount of Rs.25,73,324.66/- each. The other unregistered deed occupier-Ram Kumar Das was not an interested person so far as the acquired land is concerned neither had possession nor title over the said land. However, at the time of apportionment of the awarded amount, the petitioners who are legal heirs and survivors of late Jogesh alias Jogendra Chandra Debnath have not been awarded a single penny instead the awarded amount has been given to the three persons, namely, Sri Sishu Debnath, son of Umesh Chandra Debnath, Sri Champak Debnath, son of Sribash Debnath and Sri Chitta Debnath, son of Amarchand Debnath vide letter No.9766/70 dated 18.06.2021 (Annexure-6) behind the back of the petitioners. Learned senior counsel for the petitioners submits that petitioners have already made a representation before the Additional District Magistrate & Collector, West Tripura, Agartala on 20.03.2023 (Annexure-7) without any avail. As such, the petitioners have been

compelled to approach this Court invoking the writ jurisdiction under Article 226 of the Constitution of India.

[4] On consideration of the submission of learned senior counsel for the petitioners and the material facts and documents enclosed to the writ petition, it appears that under the provisions of Section 3H of The National Highways Act, 1956, after determination of the amount payable as compensation in terms of section 3G in respect of the acquired land vide notification issued under 3D thereof the competent authority is required to pay the awarded amount deposited by the Central Government to the person or persons entitled thereto. Under sub-section (3) where several persons claim to be interested in the amount deposited under sub-section (1) the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them. Under sub-section (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.

[5] Petitioners herein alleged that the competent authority has disbursed the entire awarded amount though petitioners being legal heirs of late Jogesh alias Jogendra Chandra Debnath, one of the awardees, was entitled to 1/3rd of the share. Any correction of award has been made

behind their back without notice. This evidently gives rise to a dispute 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. In terms of Section 3H sub-section (4) when in such an event the competent authority has to refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

[6] Petitioners have approached this Court under Article 226 of the Constitution of India however, before raising the dispute relating to apportionment of the amount to the persons, namely, Sri Sishu Debnath, son of Umesh Chandra Debnath, Sri Champak Debnath, son of Sribash Debnath and Sri Chitta Debnath, son of Amarchand Debnath vide letter dated 18.06.2021 (Annexure-6). As such, at this stage, in a dispute relating to apportionment of the original award amongst the legal heirs of the original awardees and certain other persons in whose name the amount has been disbursed vide letter No.9766/70 dated 18.06.2021 (Annexure-6), it would be appropriate to direct the petitioners to approach the competent authority i.e. the Additional District Magistrate & Collector, West Tripura, Agartala under whose authority the award has been prepared and notice was also issued upon the awardees vide letter dated 09.12.2020 (Annexure-4). Needless to say, on such application being made by the petitioners, the competent authority/Additional District Magistrate & Collector, West Tripura, Agartala respondents No.2/3 shall

consider the same, in accordance with law, of course after giving due notice to the other parties in favour of whom the award has been disbursed. In case the competent authority finds that the apportionment of the award involves is disputed, in terms of the provisions of Section 3H sub-section (4) thereof, the competent authority shall take a decision on the issue of reference of the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated. It is expected that this exercise be carried out within a reasonable time upon receipt of the application of the petitioners along with the copy of this order and supporting documents to be preferred within 3(three) weeks. Let it be made clear that this Court has not made any comments on merits of the case of the parties.

[7] The writ petition is disposed of. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH) CJ