

**HIGH COURT OF TRIPURA
AGARTALA**

LA APP NO.21 OF 2022

1. **Smt. Rina Rani Acharjee,**

W/o- Late Bijoy Krishna Acharjee,

D/o- Late Prafulla Ranjan Acharjee.

2. **Sri Prabir Ranjan Acharjee,**

S/o- Late Prafulla Ranjan Acharjee,

3. On the death of Pradip Chandra Acharjee,

S/o- Late Prafulla Ranjan Acharjee,

his legal heirs namely:-

a. **Smti. Swapna Roy Acharjee,**

b. **Sri Prasanta Acharjee,**

c. **Smti. Samapti Acharjee,**

d. **Sri Partha Acharjee,**

4. **Sri Prantosh Acharjee,**

S/o- Late Prafulla Ranjan Acharjee, All are resident of Vill-
Gajaria(Nandi Tilla), P.O.- S.D. Mission, P.S.- A.D. Nagar,
Agartala, District- West Tripura.

..... **Appellant(s)**

Vs.

Smt. Malati Acharjee,

W/o- Sri Sanjib Das,

R/o- Vill- Kalikapur, P.O.- Boarder Rampur,

P.S- West Agartala, District- West Tripura.

..... **Respondent(s)**

For the Petitioner(s) : Mr. D. Sarkar, Advocate.

For the Respondent(s) : Mr. B. Majumder, Deputy SGI
Ms. A. Banik, Advocate.

Date of hearing and delivery of
Judgment & Order : 17.05.2023.

Whether fit for reporting : NO.

HON'BLE MR JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This present appeal has been filed under Section 54 of the Land Acquisition Act, 1894 against the Judgment dated 27.01.2020 passed in case No.Misc(L.A.)31 of 2013 passed by the learned L.A. Judge whereby the learned L.A. Judge held that " *the 2nd Party Malati Acharjee is entitled to get compensation of Rs.8,09,392/- as awarded by the L.A. Collector, West Tripura, Agartala in her favour*".

2. The brief fact of this present appeal is that the 1st parties before the Court below i.e. appellants herein are the sons and daughters of the brother of the husband of Anubala Acharjee, who was the original owner of the acquired land. She died issueless and therefore, they have inherited the entire property of late Anubala Acharjee. The claim of the 2nd party respondent as per her written statement is that out of the total acquired land of 0.22 acres, 0.16 acres was gifted by said Lt. Anubala Acharjee to her vide Gift Deed No.869 dated 24.01.2012 and on the same date, Lt. Anubala Acharjee also gifted 0.13 acres of land in favour of brother of 2nd party namely Anjan Acharjee. She and her brother duly accepted the said gift deeds and thereafter 0.16 acres of land were mutated in her name vide R.S. Plot No. 4385/10495 and her gift deed was registered on commission by registering authority in the presence of attesting

witness and the scribe. The 1st party challenged the said gift deed of the 2nd party stating that it was a fictitious and forged deed.

3. After receiving the written statement, issues were framed by the learned L.A. Judge. Thereafter the date was fixed for evidence of the parties. The appellants herein being the 1st party submitted the examination in chief. Thereafter, the date was fixed for cross-examination of the witnesses of 1st parties by the 2nd party. As the witness of the 1st parties was absent before the Court, the learned L.A. Judge, West Tripura Agartala closed the evidence of the 1st parties. Thereafter, the second parties also submitted their examination in chief of the witnesses and accordingly, the learned Trial Court examined the witnesses adduced by the 2nd party. The engaged counsel on behalf of the 1st parties was not present before the Court to cross-examine the witnesses of the 2nd parties, therefore the cross-examination of the witnesses was also not done by the 1st parties.

4. The learned L.A. Judge, West Tripura Agartala fixed the date on 05.11.2019 for the argument of the case but the engaged counsel on behalf of the 1st parties did not appear. Again the case was fixed on 09.12.2019. On that date also, the engaged lawyer of the appellants was absent before the Court. Thereafter, the argument was closed and the date was fixed for Judgment on merit on 27.01.2020.

5. The learned L.A. Judge, on 27.01.2020 passed the impugned judgment based on the records and evidence adduced by the 2nd party and, accordingly, held that " the 2nd party Malati Acharjee is entitled to get compensation of Rs.8,09,392/- as awarded by the L.A. Collector, West Tripura, Agartala in her favour".

6. Being aggrieved and dissatisfied with the Judgment dated 27.01.2020 passed by the learned L.A. Judge, West Tripura in Misc.(L.A.)31 of 2013, the appellants herein has filed this instant appeal seeking the following reliefs:-

"i. Admit the appeal.

ii. Call for records in connection with case No.Misc(L.A)31 of 2013 from the Court of learned L.A. Judge. The District and Sessions Judge, West Tripura Agartala.

iii. After hearing the parties be pleased to set aside the impugned judgment dated 27.01.2020 passed in case No.MISC(L.A.)31 of 2013 passed by the learned L.A. Judge. The District and Sessions Judge, West Tripura, Agartala, whereby the learned L.A. Judge held that " the 2nd Party Malati Acharjee is entitled to get compensation of Rs.8,09.392/- as awarded by the L.A. Collector, West Tripura, Agartala in her favour."

AND

iv. Further be pleased to remand the matter before the Ld. Trial Court i.e. the Learned L.A. Judge, the District and Sessions Judge, West Tripura, Agartala to conduct fresh trial and to fair adjudication of the case.

v. Pass any other order as may be deemed fit and proper for ends of justice."

7. Heard Mr. D. Sarkar, learned counsel appearing for the appellants as well as P. Chakraborty, learned counsel along with Mrs. S. Debnath, learned counsel appearing for the respondents.

8. Mr. D. Sarker, learned counsel appearing for the appellants made the contention that for the mistake committed by the Advocate for not presenting himself before the Court, the client

cannot be put to irreparable loss, and for such he relied upon the Judgment of the Hon'ble Supreme Court.

9. This Court agrees with the said contention as advanced by the learned counsel appearing for the appellants but at the same time, the responsibility of a client cannot be overseen. Immense responsibility to pursue their case also lies with the client and merely after giving away the brief to their counsel, they cannot shut their eyes and shrug of their responsibilities. They need to keep track of their case and also pursue the matter and follow it up along with their counsel. This Court believes that it is teamwork of the Advocate as well as the client.

10. Apart from the above, the appellants have not given any date on which their Advocate fell ill or did not attend and on which specific dates when the case was called and what was the reason. In the absence of any specific reasoning, the conduct of the appellants in throwing the entire blame upon the Advocate is also not justified and the same cannot be appreciated. If at all the appellants felt that the Advocate has committed a mistake, due to which they have suffered any loss, they could have taken up the matter with the Bar Council against the said counsel. No such record is placed before this Court to prove their bonafide.

11. Further the entire case runs around the gift deed which has been executed back in the year 2012 and the acquisition proceedings was initiated in the year 2013. In terms of the same, the

compensation has also been paid. The L.A. Court has categorically indicated that since the said gift deed is valid as on date and is not canceled before any competent Court of law, the 2nd party is also equally entitled to the share, and accordingly, Rs.8,09.392/- has been fixed to her share.

12. This Court finds that there is no infirmity in the Order dated 27.01.2020 passed by the Court below since the gift deed itself is having the force of law as on the date. Accordingly, this Court finds that this present appeal is devoid of merit and accordingly, the same is dismissed. The concerned authorities and Court below shall release the amounts in terms of the award passed by the Court below and the compensation as already decided to their respective shares.

13. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

