

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.913/2021

Sri Dulal Majumder & others

.....Petitioner(s).

V E R S U S

Union of India & others

.....Respondent(s).

For Petitioner(s) : Mr. Ashish Nandi, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Dy. S.G.I.,
Mr. Mangal Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

13/02/2023

Heard Mr. Ashish Nandi, learned counsel appearing for the petitioners. Also heard Mr. Bidyut Majumder, learned Deputy S.G.I. appearing for the respondent No.1-Union of India and Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the State-respondents No.3 and 4.

2. This instant writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents for conducting joint survey to determine the actual measurement of land acquired belonging to the landholders and also for making payments of adequate compensation by initiating proceedings under the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the Act of 2013, for short).

3. Petitioners have prayed for the following reliefs:

"(i) Issue rule calling upon the respondents and each one of them to show cause as to why a writ of certiorari and/or in the nature thereof, for directing the Respondents, to transmit the records, appertaining to this writ petition, lying with them, for rendering substantive and consignable justice to the Petitioners.

(ii) Issue rule asking the Respondents to show cause as to why the Respondent No.2 should not be directed to made a fresh requisition and to make a fresh survey of the land, possession of which was actually taken over for construction of extension of Railway Track from Agartala to Sabroom within the periphery of Bikramnagar Mouja and then initiate proceedings for acquisition under the right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for payment of due compensation to the land owners Petitioners.

(iii) Call for the records appertaining to this petition.

(iv) After hearing the parties and being satisfied make the rule in terms of (ii) absolute.

(v) Issue rule asking the Respondents to show cause as to why the Respondent No.2 to 4 shall not be directed to conduct a joint survey to determine the actual measurement of land belonging to the land holders of Bikramnagar Mouja was taken over for construction of

extension of Railway track within the periphery of Bikramnagar Mouja.

(vi) Issue rule asking the Respondents to show cause as to why the Respondent No.4 should not be directed to make a fresh notification of acquisition mentioning the extent of land actually acquired, possessed and utilized for construction of Railway line in Bikramnagar Mouja.

(vii) And after hearing the parties and being satisfied, make the rule in terms of (ii), (iii) and (iv) absolute.

(viii) Pass any other order/orders/writ as your lordship may deem fit and proper for ends of justice.”

4. Background facts of the case, in brief, are that the petitioners are the private landholders under Bikramnagar Mouja of Sekerkote. Government had acquired land measuring 39.09 acres belonging to the petitioners for extension of railway line from Agartala to Sabroom on behalf of N.F. Railway. But no notice confirming the acquisition was served and award was neither determined nor disbursed despite several persuasions. The petitioners are having all the relevant documents towards confirmation of title and mutation records in their respective names. On enquiry in the office of Settlement and Land Records, the petitioners found that their land have already been recorded in the name of N.F. Railway who have utilized their land without observing any proper acquisition procedure for which the Land

Acquisition Collector, West Tripura failed to determine the award since as per provision of L.A. Act, awards are to be determined within two years from the date of declaration of acquisition. Since the private lands of the petitioners were utilized for construction of railway track, they are entitled to be compensated under the Act of 2013 and a fresh survey is also required for determination of exact measurement of land utilized. Aggrieved thereby, the petitioners have preferred this writ petition for conducting a joint survey for actual measurement of land and also to determine adequate compensation. Hence, this case.

5. Mr. Ashish Nandi, learned counsel appearing for the petitioners, contends that the land of the petitioners was taken over by the Government in the year 2009, but till date no notice confirming the acquisition was served upon the petitioners. Counsel also contends that no notice of acquisition under Section 9 of the L.A. Act or notice of award under Section 12(2) of the Act was served upon the petitioners and the land was acquired without any notification being issued. Counsel further contends that without proper particulars, land was acquired and utilized for construction of railway line and so, fresh survey for actual measurement of land is necessary. He also contends that the original acquisition procedure was initiated in 2009 as per L.A.

Act of 1984 but the said Act has been repealed and replaced by the new Act of 2013 for the purpose of compulsory acquisition of land and as such, respondents have to reinitiate the proceedings by issuing fresh notification under the new Act of 2013. Accordingly, he prays for conducting joint survey to determine the actual measurement of land acquired belonging to the landholders and also for making payments of adequate compensation by initiating proceedings under the Act of 2013.

6. On the other hand, Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the State-respondents No.3 and 4 referring to the counter affidavit filed by the State-respondents contends that earlier 0.26 acres of land was acquired from the petitioners and subsequently, the quantum of land acquired was corrected to 0.36 acres vide corrigendum (Annexure-R/2 to the writ petition) issued by the Revenue Department, Government of Tripura and based on the same, corrected award was passed in favour of the petitioners and forwarded to the SDM, Bishalgarh for disbursement of award but the petitioners did not turn up to receive the award. Accordingly, he contends that no survey is required to be conducted as also no award is needed to be passed by initiating fresh proceedings and prays for dismissal of the writ petition.

7. In view of above, since it is apparent from the counter of the State-respondents as well as from submission of learned Addl. G.A. appearing on behalf of the State that corrected award was passed after issuing a corrigendum with regard to quantum of acquired land, respondents are directed to disburse the amounts in favour of the petitioners within a period of 2(two) months from today. The respondents shall also pay interest @ 6% per annum on the amount of compensation from the date of this writ petition, i.e. 2021 till the amount is paid. However, it is left open to the petitioners that if there is any further dispute with regard to the extent of the acquisition of land, the petitioners can always agitate their legitimate rights before the appropriate forum. The petitioners are also entitled to all consequential benefits under the statute from the date of acquisition of the land if not already decided by the concerned authority.

8. With the above observations and directions, the writ petition is allowed and stands disposed of.

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

CHIEF JUSTICE (ACTING)

Pulak