

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.970 of 2022

Shri Harendra Rudrapaul son of Bir Chandra Rudrapaul resident of Tulabagan, P.O. Tulabagan, West Tripura, Pin-799211.

.....Petitioner(s)

V E R S U S

1. Union of India represented by its Secretary to Government, National Highways Authority of India, New Delhi.

2. Competent Authority for NH-108B (Additional District Magistrate & Collector), West Tripura, Agartala.

..... Respondent(s)

3. Shri Gopal Rudrapaul son of late Suresh Chandra Rudrapaul.

4. Shri Swapan Rudrapaul son of late Suresh Chandra Rudrapaul.

5. Shri Nepal Rudrapaul son of late Suresh Chandra Rudrapaul.

All are residents of Mainama, P.O. Chailengta Manu, District- Dhalai Tripura 799273.

.....Proforma-Respondent(s)

For Petitioner(s) : Mrs. P. Dhar, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, D.S.G.I.,
Mr. Pradip Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

Date of Judgment & Order : 12th January, 2023.

JUDGMENT & ORDER(ORAL)

Heard Mrs. P. Dhar, learned counsel appearing for the petitioner and also heard Mr. Bidyut Majumder, learned Deputy Solicitor General appearing for the Union of India as well as Mr. Pradip Chakraborty, learned counsel appearing for the proforma-respondents.

[2] The present writ petition has been filed by the petitioner under Section 226 of the Constitution of India for setting aside the order dated 04.11.2022 passed by the Competent Authority for NH-108B (ADM & Collector), West Tripura in Apportionment Serial No.1 in LA Case No.1/MNP/2020 of Mouja-Tulabagan Sheet No. 1/p.

[3] Brief facts, in a nutshell, are that for the purpose of upgradation of National Highway from Agartala to Khowai (NH-108B) land measuring 0.63 acres recorded in plot No.278/p of Khatian No.861 of Mouja-Tulabagan Sheet No.1/p was acquired by formal notification and L.A Case No.1/MNP/2020 under West Tripura District. The award was drawn up under Section 3G of the National Highways Act, 1956 in the name of the Raiyat and the petitioner as occupier. The petitioner filed objection and sought for reference for determination of apportionment before the Competent Authority but the authority without referring the matter as required by law passed the impugned order dated 04.11.2022.

[4] The petitioner submitted a petition for not releasing the compensation to the legal heirs of late Suresh Chandra Paul and the Competent Authority (respondent No.2 herein) after receiving the same, issued notices on the petitioner dated 31.08.2022, 15.09.2022, 28.10.2022 to appear for final hearing on 04.11.2022. The petitioner filed objection dated 04.11.2022 before the Land Acquisition Collector, West Tripura, Agartala and prayed that the matter be referred before the Land

Acquisition Judge, West Tripura, Agartala for deciding the matter of apportionment of the compensation amount.

[5] The competent authority (respondent No.2) instead of referring the prayer of the petitioner to civil court having original jurisdiction as per the provisions under Section 3H(4) of the National Highways Act, 1956, decided the matter and passed impugned order dated 04.11.2022. The petitioner alleged that the decision of the respondent No.2 was totally beyond the jurisdiction vested in him under the National Highways Act.

[6] The Competent Authority vide order dated 04.11.2022 observed that despite being afforded with ample opportunities to the petitioner to establish his claim, he failed to ascertain his right, title over the land measuring 0.63 acres under plot No.278/p of Khatian No.861 of Mouja-Tulabagan barring produced one un-registered written statement. The authority further observed that un-registered instrument could not be treated as valid document regarding the land related issue. The relevant portion of the order reads as follows :

“Heard both the parties present hearing. Lots of opportunity was given to Sri Harendra Rudrapaul to establish right title over the land but he fails to establish his right title over the land measuring 0.63 acres under plot No.278/p of Khatian No.861 of Mouja-Tulabagan Sheet No.1/part under Mohanpur Sub-Division except producing one unregistered written document. Un-registered instrument cannot be treated as valid document regarding land related issue. Apart from the above, it is ordered that the award against apptt Sl No.1 to be corrected in the name of Nepal Rudrapaul S/O Lt. Suresh

Rudrapaul based on the registered Power Attorney vide No. 2022/MNP/IV/14971 dated 25.07.2022 as well as Survival certificate vide No. SURC/2022/04843 dated 20.05.2022. Moreover, for the remaining rest land held in the name of Suresh Rudrapaul out of acquired area measuring 0.63 acres. Both parties agreed to sit out of the court for amicable settlement for rest land.”

[7] Being aggrieved and dissatisfied with the order dated 04.11.2022, the petitioner filed this writ petition seeking the following relief :

“(i) Issue Rule NISI upon the respondents and each one of them asking them to show cause as to why a writ of certiorari or in the nature thereof shall not be issued against the respondents and each one of them to quash and set aside the order dated 04.11.2022 in Apportionment Serial No.1 in LA Case No.1/MNP/2020 of Mouja-Tulabagan Sheet No. 1/p;

AND

(ii) Be further pleased to direct the respondent No.2 as to why a writ of mandamus or in the nature thereof shall not be issued directing the respondent No.2 to refer the dispute as raised by the petitioner in his petition dated 04.11.2022 to the principal civil court of original jurisdiction as provided under Section 3H(4) of the National Highways Act, 1956 at the earliest;

AND

(iii) Once the respondents appear and show cause make the rule absolute;

AND

(iv) pass all such other order/orders/directions as deemed fit in the facts and circumstances of the case.”

[8] Mrs. P. Dhar, learned counsel appearing for the petitioner submits that there is a scope of an amicable settlement between the parties and for such purpose, discussion is going on to settle the matter.

[9] On the other hand, Mr. P. Chakraborty, learned counsel for the respondent Nos. No.3, 4 & 5 fairly contends that the petition may be

disposed of subject to the observation of the competent authority that both the parties agreed to sit out of the court for amicable settlement for rest land.

[10] It is represented by the learned counsel for the petitioner that the matter is under consideration for compromise between both the parties and also the order passed by the competent authority, it is recorded that *“for the remaining rest land held in the name of Suresh Rudrapaul out of acquired area measuring 0.063 acres. Both parties agreed to sit out of the court for amicable settlement for rest land”*.

[11] In view of the same, this Court feels that an opportunity needs to be given to both the parties for settling the matter out of Court and without expressing any opinion on merits of the case, this writ petition is disposed of giving liberty to both the parties to settle the matter. In the event if there are any further grievances, the parties are at liberty to avail remedies under law.

[12] The writ petition is disposed of with the aforesaid terms. Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Dipesh