

utilized for the construction of the Indo-Bangladesh Border Fencing without any acquisition proceedings, or he being paid any compensation. It is also seen further that on the same being detected, the fact that the land of the petitioner had been taken over, was also confirmed by the office of the Umniuh Tmar Sirdarship. In this situation, the petitioner having no recourse, had also filed a complaint before the Extra Assistant Commissioner, East Khasi Hills District on 27th November, 2018, praying that a measurement be done so that the exact area that had been acquired be verified.

2. Mr. S.R.Lyngdoh, learned counsel for the petitioner submits that the action by the respondents in taking over a portion of his land is absolutely illegal, inasmuch as, it offends Article 300A. He prays that appropriate orders be passed directing the State respondents to cause inspection of the land that had been taken over and for payment of adequate compensation.

3. From the materials on record, and after affidavits had been filed, it is reflected there that respondent No. 4, whose portion of land was also acquired for the same purpose, has been in receipt of compensation. As per the finding of the respondent No. 3, which is evidenced by the affidavit of the State at Annexure-1, the allegation of the writ petitioner appears to have some basis, as it is recorded therein, that for a length of 54.00 mtrs, the actual fencing alignment passes through the land of the writ petitioner,

but compensation for that particular stretch however, has been made over to the respondent No. 4, which has been confirmed from the local Sirdar.

4. Mr. B.Khyriem, learned counsel for respondent No. 4 submits that due to no fault of his this confusion has arisen, but that the same is due to the contradictory confirmation which has been given by the Ex-Sirdar and the present Sirdar of Umniuh Tmar Sirdarship. He further submits that a portion of his land has also been acquired for which no measurement has been done and as such, no blame can be placed on the respondent No. 4.

5. Mr. S.Sen, learned Sr. GA assisted by Ms. Z.E.Nongkynrih, learned GA appearing for the State respondents submits that the dispute appears to be civil in nature due to the disputed confirmations given by the Ex-Sirdar and present Sirdar, and remedy if any, would lie under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. Having heard learned counsel for the parties, at the outset, it appears that question of disputed facts have been placed before this Court which is not possible in a writ proceeding to discern or define the competing rights and claims of the parties. It is however noted that the writ petitioner has a valid claim, so as the respondent No. 4, as far as the portion of lands which have been used in the said Indo-Bangladesh Border Fencing. Faced with this situation, and as submitted by learned Sr. GA for settlement of the

respective entitlements and claims, recourse would have to be taken to Section 64 of the Act, before the Collector concerned.

7. In view of the facts and circumstances of the case, this matter is disposed of with a direction that the aggrieved parties approach the Collector under Section 64 by way of an appropriate application, who will then undertake the proceedings under the Act for settlement of the matter in dispute. The matter should be disposed of as expeditiously as possible, preferably within a period of 4 months from the date the application is made before the Collector.

8. As ordered, matter stands disposed of.

Meghalaya
04.07.2023
"Samantha PS"



Judge