

HIGH COURT OF TRIPURA
AGARTALA

IA NO.1 OF 2024 IN
WA 19 OF 2024

Sri Chitta Ranjan Sarkar & Anr. Vrs. The State of Tripura & Ors.

For the petitioner (s) : Mr. S. Lodh, Advocate
For the respondent (s) : Mr. Kohinoor N. Bhattacharyya, G.A.

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For the respondent (s) : Mr. Kohinoor N. Bhattacharyya, G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR.JUSTICE ARINDAM LODH

ORDER

20.03.2024

Heard learned counsel for the petitioners and learned Government Advocate for the State-respondents in the delay condonation application as also on the merits of the main appeal.

2. The writ appeal is directed against the impugned order dated 05.09.2023, passed in WP(C) 554/2023 whereby the learned writ court has dismissed the writ petition as it involves disputed questions of facts and is suffering from laches.

3. Learned counsel for the petitioners submits that the petitioners are land losers in whose favour an award was made under acquisition carried in terms of LA Act of 1894. By award dated 18th April, 2011, passed under Section 12, Sub-Section (2) and Section 13, Sub-Section (1) of the LA Act, 1984 in LA Case No.3/BLG/2010 apportionment of the award was made against acquisition for construction of 400 K.V. Sub-Station of Madhuban, Sheet No.5 & 6/p mouja for land measuring 36.51 acres under Surjyamaninagar Tehsil of Bishalgarh Sub-division in favour of Rayati

Khudiram Bhowmik, son of Nabin Chandra Bhowmik of Surjyamaninagar, Chitta Ranjan Sarkar, son of Harish Ch. Sarkar of Madhuban and Satya Ranjan Sarkar, son of Harish Ch. Sarkar of Madhuban, the last two being the present petitioners.

4. In a proceeding under Section 14(1) of the TLR and LR Act, 1960, the Sub Divisional Magistrate, Bishalgarh, West Tripura has ordered cancellation of allotment in Plot No.6017 from Khatian No.2342, area measuring 3.60 acres recorded in the Khatian No.1 (Khas Khatian) on account of breach of condition of allotment rules under TLR and LR Act, 1960. This plot is part of the acquired land. The petitioners on wrong advise, however, did not raise the issue of apportionment of the shares between the parties by seeking reference in terms of Section 30 of the LA Act, 1894 on account of this proceedings. Later on, they have approached the writ court in WP(C) 554 of 2023 which has been dismissed by the impugned order dated 5th September, 2023.

5. Learned counsel for the petitioners submits that these two petitioners alone are now the occupiers of the acquired land. However, the compensation amount remains deposited with the Collector and has not been disbursed amongst the land losers as per the original award. Therefore, the petitioners being the land losers and occupiers of the acquired land approached the writ court for release of the proportionate share of the compensation awarded in their favour. Though the writ petition suffered from delay, but the claim of the petitioners for disbursement of due compensation is rightful. The petitioners took some time in obtaining the certified copy of the impugned order and seeking legal advice from the concerned counsel to prefer an appeal. Therefore, there is a delay of 150 days which may be condoned.

The petitioners may be allowed to approach the Collector for release of the due amount of compensation after proper enquiry and notice.

6. Learned G.A. has opposed the prayer for condonation of delay. He submits that the explanation is not sufficient. He also submits that the petitioners have approached the writ court after 12 years of the award seeking disbursement of compensation on a plea that one of the awardees, namely, Khudiram Chandra Bhowmik has lost his status as 'Rayati occupier' by virtue of the order passed by the SDM, Bishalgarh in 2011 itself. Therefore, the writ court has rightly dismissed the writ petition.

7. On consideration of rival submissions of the parties and in view of the explanation urged, delay is condoned in the interest of justice. However, upon hearing learned counsel for the petitioners and the State, in the given circumstances of the case, without expressing anything on the merits of the claim for compensation made by the petitioners in relation to an award made on 18.04.2011 (Annexure -2 to the writ petition), we feel it proper to allow liberty to the petitioners to approach the Collector, West Tripura within the meaning of the Land Acquisition Act, 1894 with a representation for consideration of their grievances relating to release of the admissible compensation.

8. The Collector may consider such representation in accordance with law after giving opportunity to the parties within a reasonable time preferably 6 months.

9. In view of the above, the writ appeal stands disposed.

Connected Interlocutory Application also stands disposed.

(ARINDAM LODH),J

(APARESH KUMAR SINGH),CJ