

**HIGH COURT OF TRIPURA  
AGARTALA**

**CRP 41 of 2022**

**1. Sankar Sarkar**, son of late Kalimohan Sarkar, Age-61

**2. Dilip Sarkar**, son of late Kalimohan Sarkar, Age-64  
Both are resident of Bokafa, P.O. & P.S. Santir Bazar,  
District- South Tripura,

**3. Rina Das (Sarkar)**, wife of Sri Umesh Das, daughter of  
late Kalimohan Sarkar, resident of West Jalefa,  
P.O. & P.S. Sabroom, District- South Tripura, Age-47

**4. Mina Sarkar**, wife of Sri Asish Sarkar, daughter of late  
Kalimohan Sarkar, resident of Damdama,  
P.O. & P.S. Sabroom, District- South Tripura, Age-43

..... **Petitioner(s)**

(2<sup>nd</sup> Party Claimants in NH (Ref) 01 of 2016)

**Versus**

**1. Ranga Prava Sarkar**, wife of late Rajmohan Sarkar

**2. Hare Krishna Sarkar**, son of late Rajmohan Sarkar

**3. Mithun Sarkar**, son of late Rajmohan Sarkar

**4. Sajal Sarkar**, son of late Rajmohan Sarkar

**5. Satyajit Sarkar**, son of late Rajmohan Sarkar  
Sl No-2 to 5 are sons of late Raj Mohan Sarkar,  
resident of East Bagafa, P.O. East Bagafa,  
P.S. Santir Bazar, South Tripura

**6. Manasa Sarkar (Patoyari)**, wife of Bimal Patoyari,  
resident of Ashram Tilla, P.O. & P.S. Santir Bazar,  
District- South Tripura

**7. Swapna Sarkar (Mitra)**, wife of Dina Dayal Mitra,  
Village & P.O. Nalua, P.S. Belonia, District- South Tripura

**8. Swagata Sarkar (Dey)**, wife of Sri Sunil Dey, resident  
of Dalubari, P.O. & P.S. Sabroom, District- South Tripura,

(1<sup>st</sup> Party Claimants in NH (Ref) 01 of 2016)

**9. The Additional District Magistrate & Collector**,  
South Tripura, Belonia, Government of Tripura,  
(Competent Authority under National Highway Act, 1956),  
P.O. & P.S. Belonia, District- South Tripura.

**10. The Sub Divisional Magistrate**, Santir Bazar,  
Government of Tripura, Office of the SDM, Santir Bazar,  
P.O. & P.S. Santir Bazar, South Tripura.

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

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For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate  
Mr. Samarjit Bhattacharjee, Advocate  
Mr. Kawsik Nath, Advocate  
Mr. D. Sarkar, Advocate

For Respondent(s) : Mr. Debajit Biswas, Advocate

Date of hearing : 05.02.2024.

Date of pronouncement  
of Judgment and order : 08.02.2024

Whether fit for reporting: No.

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**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**Judgment and Order**

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel, Mr. Kawsik Nath, learned counsel and Mr. D. Sarkar learned counsel for the claimant-petitioners. Also heard Mr. Debajit Biswas, learned counsel appearing for the claimant-respondents.

**[2]** The present petition has been filed for invoking the supervisory jurisdiction of the High Court to quash/cancel the award dated 07.05.2022 passed in NH(Ref)- 01 of 2016 by the learned District Judge, South Tripura, Belonia and further to quash/cancel the Inquiry Report, dated, 15.03.2022 issued by the Deputy Collector & Magistrate, Santir Bazar, South Tripura District, which was forwarded by the ADM & Collector (competent Authority) South Tripura, vide letter dated, 19.03.2022.

**[3]** It is the case of the claimant-petitioners that they are the sons and daughters of late Kalimohan Sarkar, who was the original owner and possessor of the total land measuring 0.330 acre under Khatian No.36, Mouja- Santir Bazar, Tehsil-Santir Bazar, under old Dag No.3091 &

present Dag No.7431. Out of 0.330 acre, land measuring 0.260 acre was acquired by the National Highway Authority and to that effect Declaration No.F.NH-12037/86/2014/TR/SARDP-NE(Part), dated, 01.01.2015 for widening/double lining of NH-44, was issued by the competent authority. Thereafter handing over & taking over of the acquired land was effected from the legal heirs of late Kalimohan Sarkar, i.e., the present petitioners herein. Thereafter, vide Notice of Award, dated, 30.05.2015, the competent authority, i.e. the ADM & Collector, South Tripura, Belonia, asked the predecessor of the petitioners, late Kalimohan Sarkar to appear before him on 12.06.2015 for receiving the awarded amount regarding acquisition of land.

**[4]** It is contended in the petition that before awarding the compensation in favour of late Kalimohan Sarkar the competent authority caused field inquiry, in respect to the interested persons in connection with the acquired land and after inquiry being found the petitioners in physical possession of the acquired land being the legal heirs of late Kalimohan Sarkar, asked the petitioners for receiving the awarded amount from the office of the competent authority, on 12.06.2015. The said field inquiry was conducted as per Section 3 of the National Highway Act and in terms of Section 3C of the NH Act, 1956, paper publication was issued. As per the said notice dated, 30.05.2015, the petitioners appeared before the office of the SDM, Santir Bazar on 12.06.2015 for receiving the awarded money. At that time, the petitioners were came to know that one Mithun Sarkar, i.e. respondent No.2 herein, filed an objection on 09.06.2015 to the competent authority demanding release the entire awarded amount in favour of the respondents No.1 to 8 herein. On the basis of the objection raised by the respondent No.2, the SDM,

Santir Bazar did not release the awarded amount in favour of the petitioners.

**[5]** Thereafter, the respondents No.1 to 8 filed the writ petition, vide WPC No.485 of 2015, praying for causing reference of the LA Case No.25/STB/2015 to the learned Principal Civil Court (the District & Sessions Judge, Belonia, South Tripura) in terms of Section 3H(4) of the NH Act, 1956. This High Court after hearing both the parties, vide order dated, 04.02.2016 disposed of the writ petition by directing the Addl. District Magistrate & Collector, South Tripura to release the 50% of the amount as awarded as the compensation to the present petitioners herein, on proper identification and following all requirements of law and it was further ordered that the remaining amount shall be deposited in the Court of the learned Principal Civil Court (the District Judge, Belonia, South Tripura) by the Competent Authority (the Addl. DM & Collector, South Tripura, Belonia). It was further observed by this Court that the release of the said amount would further be subject to outcome of the reference.

**[6]** In terms of the Order dated 04.02.2016 passed by the Hon'ble High Court in WP(C) 485 of 2015, the ADM & Collector, South Tripura, Belonia released the 50% of the awarded amount in favour of the petitioners herein and rest 50% of the awarded amount was kept withheld subject to outcome of the reference in terms of the Order, dated 04.02.2016 passed by this Court.

**[7]** Thereafter, learned District & Sessions Judge, Belonia, South Tripura, in terms of the reference, registered case vide No. NH(Ref)-01 of 2016 and issued notice upon the parties to the LA Case

No.25/STB/2015 and the petitioners appeared before the learned court and filed their claim statement as 2<sup>nd</sup> party claimants. The respondents No.1 to 8 also filed their claim statement. Issues were framed by the learned Court for deciding the lis involved in the case. Both the parties adduced their evidence and subsequently, they were examined and cross-examined by the respective parties. Witnesses were also examined and cross-examined and documents were exhibited by both the parties.

**[8]** Learned Court after perusing all the documents and evidence adduced by the parties, vide Order dated, 07.12.2019 asked for a field inquiry by the ADM & Collector, South Tripura, i.e., the competent authority for proper determination of the lis involved in the case and as a result, the competent authority on 07.02.2020 through the SDM, Santir Bazar, make a field inquiry and submitted report before the learned Trial Court. Thereafter, the petitioners herein, submitted objection against the said report before the learned Trial Court on the ground that at the time of field inquiry, the petitioners were not noticed or called for to remain present at the time of field inquiry. Upon hearing the parties to the objection filed by the petitioners, the learned Trial Court, vide order dated 18.07.2020, set aside the field inquiry report dated 07.02.2020 and asked for fresh inquiry report from the competent authority.

**[9]** On the basis of the order dated 18.07.2020 passed by the learned Trial Court, the competent authority caused fresh inquiry and submitted report on 27.07.2021 which was forwarded by the competent authority to the learned Court on 16.08.2021. Thereafter, the respondents No.1 to 8 filed their objection against the inquiry report dated 16.08.2021, on the ground of inconsistency with the earlier report,

dated 07.02.2020 and, learned Trial Court vide order dated 08.02.2022 rejected the objection submitted by the private respondents No.1 to 8.

**[10]** The private respondents No.1 to 8, challenging the order dated 08.02.2022 of the learned Trial Court approached this Court by filing CRP 10 of 2022. This Court, vide order dated, 08.03.2022, disposed of the said CRP 10 of 2022 with the following observations:

**"In view of the contradiction pointed out in the reports dated 20.01.2020 and 18.07.2020, this Court feels that ends of justice would be met if an opportunity of cross-examination of the competent authority is given to the petitioners by the learned Court below within a stipulated dated i.e. 14.03.2022 and the learned Court below shall also communicate the same to the concerned authority to be present in the Court for cross-examination on the reports as stated above.**

**Further, it is made clear that since the suit pertains to 2016, prolonging the matter by way of any tactic, cannot be appreciated. In view of the same, this Court feels that no further adjournment would be granted on 14th March, 2022 itself, with regard to the examination of the concerned authority i.e. the DCM, Santirbazar. It has been further clarified that after hearing both sides, appropriate order be passed as expeditiously as possible preferably within the stipulated dated of 14th March, 2022. Registry is directed to furnish a copy of this order to the learned counsel for the petitioners and also dispatch copies to the DCM, Santirbazar, South Tripura and the learned District Judge, South Tripura, Belonia, during the course of the day.**

**Accordingly, the present petition stands disposed of."**

**[11]** In terms of the order dated 08.03.2022 passed by this Court in CRP 10 of 2022, the DCM, Santir Bazar, appeared before the learned Trial Court to face cross examination and in the cross examination, the DCM, Santir Bazar stated that the report submitted by him on 27.07.2021 was erroneous and he wanted to clarify the mistake committed by him. Thereafter, the learned Court, vide Order dated, 14.03.2022 gave another opportunity to the DCM, Santir Bazar to file a fresh inquiry report before the learned Court and accordingly, the DCM, Santir Bazar, submitted report on 15.03.2022, which was forwarded to the learned Court by the ADM & Collector, South Tripura on 19.03.2022.

**[12]** Thereafter, petitioners filed objection(s) regarding the field report, and finally on perusal of evidence on record and upon hearing the parties, learned Trial Court vide Award, dated 07.05.2022 passed in NH(Ref)-01/2016, declared that the 1<sup>st</sup> party claimants, i.e. the respondents No.1 to 8 herein are entitled to get the remaining 50% of the compensation out of total compensation amount since the 1<sup>st</sup> party claimants have been able to prove their right, title and possession over the northern portion of the acquired land. In view of this, the learned Court allowed the 1<sup>st</sup> party to withdraw the remaining part of the awarded amount. The observation made by the learned Court on 07.05.2022 is as under:

**".....12. So, this court finds that, the first party-petitioners is the owner and possessor of the acquired land of the northern side as per exhibit-1 to 5 and exhibit-7 and also by the corroborative evidence of CW-1 and exhibit-C-2/CW-1. Hence, this court finds that the first party had right, title and possession over the acquired land. Accordingly, first party-petitioners are entitled to remaining amount.**

**Accordingly, issue Nos.(I) and (II) are decided in favour of the first party-petitioners.**

**A W A R D**

**13. In the result, the The first party-petitioners are entitled to remaining 50% amount of compensation out of the total compensation amount since the first party-petitioners able to prove their right, title and possession over the north portion of the acquired land. Thus, the remaining part of the awarded amount shall be released in favour of the first party-petitioners being legal heirs of Late Raj Mohan Sarkar.**

**14. The case is decided accordingly and stands disposed of....."**

**[13]** Aggrieved thereby, the petitioners herein preferred the present CRP seeking following reliefs:

**(i) Admit the instant petition;**

**(ii) Call for records;**

**(iii) Issue Rule upon the respondents;**

**(iv) After hearing, allow the instant petition preferred by the petitioners herein by quashing and cancelling the Award, dated, 07.05.2022 passed in NH (Ref)-01 of 2016 by the learned District Judge, South Tripura, Belonia;**

**(v) Quash & cancel the Inquiry Report dated, 15.03.2022, issued by the Deputy Collector & Magistrate, Santir Bazar, South Tripura District, which was forwarded by the ADM & Collector (Competent Authority) South Tripura, vide letter dated, 19.03.2022 and to declare the said report is illegal, null and void.**

**(vi) To pass an ad interim stay order, staying the operation of the Award, dated, 07.05.2022, passed in NH (Ref)-01 of 2016 and release of the awarded amount in favour of the respondents No.1 to 8, till disposal of instant petition.....**

**[14]** Mr. P. Roy Barman, learned senior counsel appearing for the petitioners submits that the impugned award dated, 07.05.2022, passed in NH(Ref)-01/2016, suffers from illegality, impropriety and incorrectness. According to him, the impugned award is based on the report which is ex-facie not sustainable. It is further submitted by Mr. Roy Barman, learned senior counsel that the impugned award has been passed absolutely relying on the basis of erroneous report, submitted by the DCM, Santir Bazar on 15.03.2022, which suffers from serious laches and inadmissible in evidence.

**[15]** On the other hand, Mr. Debajit Biswas, learned counsel appearing for the claimant-respondents contends that learned Court below in case No. N.H. (Ref.) 01 of 2016 passed judgment in favour of the respondents herein, based on the evidences brought on record and the reports of field enquiry. He further contends that the finding of the learned Trial Court was just, fair and proper and the same should not be interfered with.

**[16]** Having heard the learned counsel for the respective parties and on perusal of record, it is evident that in compliance with the order dated 08.03.2022 passed by this Court in CRP 10 of 2022, the DCM, Santir Bazar, appeared before the learned Trial Court and faced cross examination and in the cross examination he admitted that the report submitted by him on 27.07.2021 was erroneous and he wanted to clarify

the mistake committed by him. Thereafter, the learned Court below, vide Order dated, 14.03.2022 gave another opportunity to the DCM, Santir Bazar to file a fresh inquiry report before the learned Court and accordingly, on 15.03.2022, the DCM, Santir Bazar, submitted fresh report, which was forwarded to the learned Court below by the ADM & Collector, South Tripura on 19.03.2022 and the map/plan was also system generated and was duly attested by the authority.

**[17]** Since, the fresh field report has been obtained by cross-examining the concerned DCM and on examination of all the relevant records, the learned Court below passed the order in favour of the claimant respondents i.e. respondents No.1 to 8, this Court feels that there is no infirmity in the order and award passed by the learned Court below on 07.05.2022. Thus, the present CRP filed by the petitioners is liable to be dismissed. Accordingly, the present CRP is hereby dismissed affirming the order of the Court below.

As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

**JUDGE**

*Sabyasachi G.*

**SABYASACHI  
GHOSH**

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