

**HIGH COURT OF TRIPURA
AGARTALA
L.A. App. No.57 of 2024**

Sri Nripendra Kumar Tripura (Age 57 years)
S/o. Lt. Madhusudhan Tripura,
of Ramji Para, West Jalefa
P.S. – Sabroom, P.O. Jalefa.
Pin - 799145

----- Referring Claimant-Appellant
Versus

1. The Deputy Chief Engineer (CON-2) No.1

North East Frontier Railway,
Badharghat Railway Station
P.O. Siddhi Ashram, P.S. Amtali
Agartala, West Tripura.

2. Land Acquisition Collector

South Tripura, Belonia
Office of the D.M. and Collector
P.O. & P.S. Belonia
Dist. South Tripura
Pin-799155

----- O.P.-Respondents

For Appellant(s)	:	Ms. P. Chakraborty, Adv.
For Respondent(s)	:	Mr. T. Chakraborty, Adv.
Date of hearing and Judgment & Order	:	21.09.2024
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order (Oral)

This appeal under Section 54 of L.A. Act, 1894 is preferred against the judgment and order dated 07.09.2019 delivered by Learned L.A. Judge, South Tripura, Belonia in connection with case No.L.A.(Ref.) No.196 of 2019.

2. Heard Learned Counsel Ms. P. Chakraborty for the appellant and also heard Learned Counsel Mr. T. Chakraborty

for the respondent No.1. None appeared on behalf of the L.A. Collector, South Tripura, Belonia inspite of service of notice.

3. In course of hearing of argument, Learned Counsel for the appellant submitted that mother of the appellant was the owner of land measuring 1.83 acres of Hal plot No.4798/P pertaining to Khatian No.1242 classified as Nal under Mouja-West Jalefa, TK-Sabroom under Sabroom Sub-Division. Said mother of the appellant expired on 06.11.1994 leaving behind the present appellant as her only legal heir. The aforesaid land of the appellant was acquired by the L.A. Collector i.e. the respondent No.2 herein for the purpose of construction of Agartala to Sabroom, New Railway line vide declaration No.F.9(04)-REV/ACQ/XII/2012 dated 31.10.2012.

4. According to appellant, at the time of acquisition, the L.A. Collector determined the value of the acquired land @ Rs.1,44,000/- per kani. Being dissatisfied with the award of the L.A. Collector, the appellant approached to the L.A. Collector, South Tripura District, Belonia for reference of his matter under Section 18 of the L.A. Act before the Court of Learned L.A. Judge and accordingly the matter was referred to L.A. Judge, South Tripura, Belonia under Section 18 of the L.A. Act. Accordingly, a reference case was registered before the Court of Learned L.A. Judge.

5. The appellant appeared before the Court of Learned L.A. Judge, South Tripura, Belonia. Before the Learned L.A. Judge, the referring-claimant i.e. the appellant herein submitted

his claim statement and the L.A. Collector also submitted counter statement before the said Court. But at the time of hearing of the reference case before the Learned L.A. Judge, the appellant-claimant failed to adduce his oral/documentary evidence in support of his claim. So, for non-production of evidence both oral/documentary, Learned L.A. Judge finally affirmed the award made by the L.A. Collector and dismissed the case with 'nil' award.

6. Learned Counsel for the appellant further submitted that if the appeal is not allowed and matter is not remanded back to the Learned L.A. Judge giving opportunity to the present appellant to adduce his oral/documentary evidence on record, in that case, the appellant would sustain huge amount of financial loss because the compensation determined by the L.A. Collector was too less than the prevailing market price and by this time, the land value of the adjacent plots of the acquired land and its adjoining areas have been increased a lot. Learned Counsel further submitted that the appellant has got a very good prima facie case but due to some compelling circumstances he could not appear before the Court with his evidence in time but the Learned L.A. Judge without affording any opportunity dismissed the case with nil award. So, Learned Counsel for the appellant urged for allowing this appeal by setting aside the order of the Learned L.A. Judge.

7. Learned Counsel for the respondent No.1 submitted that as the appellant did not have any oral/documentary

evidence in support of his claim statement. So, the appellant intentionally did not appear before the Learned L.A. Judge for which the Learned L.A. Judge was pleased to affirm the award made by the L.A. Collector and dismissed the appeal with nil award. Learned Counsel further submitted that there is no merit in the appeal and urged for dismissal of this present appeal with costs.

8. As already stated, none appeared on behalf of the L.A. Collector inspite of service of notice.

9. I have seen the order dated 07.09.2019 delivered by Learned L.A. Judge in connection with case No.L.A.(Ref) No.196 of 2019. For the sake of convenience, I would like to mention herein below the entire part of the relevant order delivered by the Learned L.A. Judge which runs as follows:

The referring claimant is absent without step though notice was duly served upon him.

On behalf of the L.A. Collector, learned G.P. is present.

At the instance of the referring claimant, Sri Nripendra Kr. Tripura, the present case was referred by the L.A. Collector under sec.18 of the L.A. Act in respect of acquired land measuring 1.83 acres of mouja-West Jalefa, TK-Sabroom under Sabroom Sub-Division, khatian No.1242, plot No.4798/p and nal class of land.

On behalf of the L.A. Collector, learned G.P. is present.

No step is filed by OP No.2, NF Railway.

Counter statements have been submitted by the Ops earlier.

The referring claimant already submitted claim statement before the L.A. Collector. But on receiving the notice, the referring claimant has failed to appear before this court and adduce evidence to justify his claim.

Learned G.P. submits that the claimant is not interested to proceed with this case and they also express that they are not inclined to adduce any evidence and prays to confirm the award of the L.A. Collector.

Since no step is filed by the referring claimant and the referring claimant has not adduced evidence in support of his claim, I find no ground as to why the award given by the L.A. Collector will not be confirmed.

On perusal of the record, I find that L.A. Collector had given proper justification in respect of coming to the compensation. Accordingly, due to want of evidence on the part of the referring claimant, I do hereby confirm the award given by the L.A. Collector.

Hence, the case is disposed of with nil award confirming the award given by the L.A. Collector.

10. This present appeal is preferred under Section 54 of L.A. Act and for the sake of convenience, I would like to refer herein below the relevant provision of Section 54 of the L.A. Act which provides as under:

54. Appeals in proceedings before Court.- Subject to the provisions of the Code of Civil Procedure, 1908(5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, and appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLIV thereof.

11. On perusal of the order of the Learned L.A. Judge, it appears that before the Learned L.A. Judge, the present appellant submitted his claim statement and the respondent No.2 i.e. the L.A. Collector also submitted counter statement but no counter statement was submitted by the respondent No.1 i.e. the requiring department. Further, on perusal of the order, it appears that Learned L.A. Judge simply on the basis of submission made by Learned G.P. without affording any opportunity to the present appellant proceeded to dismiss the case with nil award confirming the compensation awarded by the L.A. Collector in the given case.

12. Thus, in my considered view, Learned L.A. Judge ought to have allowed an opportunity to the present appellant to adduce his oral/documentary evidence on record, if any, in support of his claim statement but on bare perusal of the order, it appears that no such scope was given to the referring claimant. Although it is on record that inspite of receipt of notice, the referring claimant i.e. the present appellant did not appear before the Learned L.A. Judge.

13. Since the L.A. Act is a beneficial legislation and the land belonging to the appellant was acquired by the Government for the purpose of construction of Agartala-Sabroom Railway line and considering the land valuation of the State, it appears to this Court that Learned L.A. Judge could adjourn the case atleast for one occasion or to inform the Learned Counsel for the referring claimant to take appropriate step but from the order, it appears that no such opportunity was given to the referring claimant by the Learned L.A. Judge which in my considered opinion was not proper and the same caused injustice to the appellant.

14. So, after hearing both the sides, it appears that the matter needs to be remanded back to the Learned L.A. Judge to afford an opportunity to the appellant to adduce his oral/documentary evidence on record, if any, in support of his claim statement. Before the Learned L.A. Judge, if the present appellant i.e. the referring claimant again fails to adduce oral/documentary evidence on record, in that case, the Learned

L.A. Judge shall have the liberty to dismiss the reference confirming the award/compensation awarded by L.A. Collector, South Tripura, Belonia in the connected case.

15. In the result, the appeal filed by the appellant is hereby allowed. The Judgment and Order dated 07.09.2019 delivered by Learned L.A. Judge, South Tripura, Belonia in connection with L.A.(Ref) No.196 of 2019 is hereby set aside. The matter is remanded back to the Learned L.A. Judge with a direction to give opportunity to the referring claimant i.e. the appellant herein to adduce his oral/documentary evidence on record and thereafter to allow the contesting opposite parties i.e. the requiring department and the L.A. Collector to cross-examine the witnesses of the referring claimant and also after affording opportunity to the contesting opposite parties to adduce their evidence, if any, in support of their contention and thereafter to deliver a fresh judgment/award. The entire exercise shall be made by the Learned L.A. Judge, South Tripura, Belonia within a period of 3(three) months from the date of receipt of copy of this judgment/order. The present appellant shall appear before the Court of Learned L.A. Judge on 07.10.2024. The respondents are also asked to appear before the Court of Learned L.A. Judge on that day for further proceeding.

A copy of this judgment/order be sent to the Court of Learned L.A. Judge, South Tripura, Belonia for information and compliance. A copy of this judgment/order be furnished to Learned Counsel for the appellant and Learned Counsel for the

respondent No.1. A copy of this order also be communicated to the L.A. Collector, South Tripura, Belonia for taking appropriate step in pursuance of the judgment/order passed by this Court.

16. With this observation, this appeal stands disposed of on contest.

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



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