

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.79 of 2024

Anil Plantations Pvt. Ltd. represented by the Manager Harishnagar Tea Estate,
Bishalgarh

.....Petitioner(s);

Versus

1. The L.A. Collector (Office of the DM & Collector) Sepahijala, Tripura
2. The Officer-in-Charge REAR EX Setuk, C/o 99 APO

.....Respondent(s)

For Petitioner(s) : Mr. D.K. Biswas, Sr. Advocate,
Mr. S.S. Debnath, Advocate,
Mr. Manoj Debnath, Advocate,
Mr. D.S. Kunwar, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Deputy SGI,
Mr. Kohinoor N. Bhattacharyya, G.A.

CRP No.75 of 2024

Land Acquisition Collector, Sepahijala District, Bishramganj

.....Petitioner(s);

Versus

1. Anil Plantation Private Limited, owner of Harishnagar Tea Estate of Bishalgarh, P.S. Bishalgarh, District- Sepahijala, represented by the Manager
2. The Union of India represented by the Officer in Charge, Rear Ex SETUK C/o 99 APO, Salbagan, West Tripura, Agartala

.....Respondent(s)

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

For Respondent(s) : Mr. D.K. Biswas, Sr. Advocate,
Mr. D.S. Kunwar, Advocate,
Mr. S.S. Debnath, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

20/09/2024

Both these revision petitions are being taken together with consent of the parties and disposed of by this common order as both arise out of different orders passed by the same Executing Court of learned LA Judge, Sepahijala District, Bishalgarh in Ex(M) 02 of 2021. The genesis of CRP No.75/2024 is reflected in the order dated 14.08.2024 which reads as under:

“14.08.2024

Mr. Kohinoor N Bhattacharya, learned Government Advocate submits that by the impugned order dated 30.07.2024 passed in Execution (M) No.02 of 2021, the learned L.A. Judge, Sepahijala District has issued writ of attachment against the movable/immovable properties of the judgment debtor i.e. the LA Collector, petitioner herein, and the GREF.

It is submitted that the LA Collector is only a facilitator in the acquisition of the properties. It is the requisitioning authority which has to satisfy the decretal amount during course of the execution proceedings. However, without appreciating the issue, the movable and immovable properties of the office of the judgment debtor has been attached by the learned L.A. Judge.

Issue notice on respondent No.1 executable through the learned L.A. Court through their learned counsels. Mr. Bidyut Majumder, learned D.S.G.I. appears for the respondent No.2 (Union of India). Requisites be filed by 20th August, 2024.

In the meantime, the operation of the impugned order dated 30.07.2024 so far as it relates to attachment of the movable/immovable properties of the L.A. Collector-petitioner shall remain stayed.

Service report be returned within one week of its receipt.

Matter be listed on 12th September, 2024.”

CRP No.79/2024 was thereafter preferred by the awardee/decreed holder against the order dated 14.08.2024 passed by the learned Executing Court after taking note of the order dated 14.08.2024 passed by this Court in CRP No.75/2024.

In order to understand the genesis of these litigations, it is necessary to trace the background which can be culled out from the pleadings of both the revision petitions.

2. Petitioner-Anil Plantation Private Limited (hereinafter referred to as “the land owner”, *for short*) in CRP No.79/2024 on a reference under Section 18 of the LA Act, 1894 i.e. Misc(LA) 75 of 2014 was awarded enhanced compensation. The operative part of the award dated 07.02.2020 passed by learned LA Judge, Sepahijala District, Bishalgarh is extracted hereunder:

“In the result, the application of the referring claimant for enhancement of award is allowed. It is hereby directed that the referring claimant is entitled to get compensation @ Rs.7,81,056/-per kani for the acquired land. The referring claimant will also get 30% solatium and 12% further enhanced amount of compensation upon the said land value computing from the date of notification u/s 4 of the LA Act, 1894 till the date of award by the Collector or the date of taking possession of land whichever is earlier, as per Section 23(2) and 23(1)(A) of the Act respectively. The referring claimant will further get interest @ 9% per annum from the date of taking over possession from one year and thereafter

@15% per annum after expiry of one year till the date of payment upon the enhanced amount.

It is also directed that interest will also be counted on additional amount as awarded u/s 23(1A) of the Act and upon the solatium awarded u/s 23(2) of the Act.

The amount already paid shall be adjusted against the compensation enhanced.”

A photocopy of the award has been produced by learned Deputy SGI and it is kept on record.

3. Be it indicated here that Misc(LA) 75 of 2014 was instituted by the claimant-land owner Anil Plantation Private Limited against the Executive Engineer, PWD, NH Division, Agartala, Government of Tripura and the Land Acquisition Collector (LAC, *for short*), West Tripura District, Agartala – opposite parties No.1 & 2 therein. It is pertinent, therefore, to mention herein that the Union of India or its instrumentality – Border Roads Organization (BRO) was not a party before the learned LA Court. The land owner thereafter instituted Ex(M) 02 of 2021 for execution of the award passed by the learned LA Court whereby the compensation was enhanced. During the proceedings of the execution case on 08.06.2023, the General Reserve Engineering Force (hereinafter referred to as “GREF”, *for short*) was impleaded as a party. The order dated 08.06.2023, photocopy of which has also been produced by learned senior counsel for the petitioner-land owner is extracted hereunder:

“08.06.2023

Ld. Addl. GP Mr. SK Banerjee for the JD No. 2, LA Collector is present.

Ld. Counsel Smt. K. Majumder is present on behalf of the petitioner.

Ld. Counsel R.C. Deb is present on behalf of the JD requiring Department.

It is submitted by Ld. Counsel of the JD requiring Department that the requiring Department namely PWD, NH Division, Agartala, Govt. of Tripura has already handed over the Project to the GREF and so GREF may be made party in this case for making payment of the awarded amount.

None of parties raised objection against such submission of present JD requiring Department.

It appears that for proper execution of the Award dated 04.02.2020 passed by this Court in c/w Misc (LA) 75 of 2014 it is necessary to insert the

name of GREF as JD requiring Department deleting the name of PWD, NH Division as mentioned above.

Accordingly, exercising the power vested under Order I Rule 10(2) of CPC name of PWD, NH Division is hereby deleted from this case and the name of Officer In Charge, REAR Ex Setuk, 99 APO, Salbagan, who is representing the GREF is hereby inserted as JD requiring Department.

Ld. Counsel of GREF is already present before this Court and assured that payment shall be made within a period of 2 months from today.

Thus order of Attachment dated 01.05.2023 shall remain stayed.

JDs shall make payment of the compensation amount within the next date positively with up to date interest.

Furnish copy of this order to the Ld. Counsel of the JD requiring Department.

Senior Sheristadar shall make necessary correction in the Execution Petition of this case.

Fix 08.08.2023 for payment report.”

A perusal of this order shows that the genesis of the present controversy would be more apparent once the narration of facts is completed.

4. It was at the instance of the PWD, NH Division that GREF was made a party in the execution case for payment of the awarded amount. The learned Executing Court records that none of the parties had raised objection against such submission of the present judgment-debtor requiring department that was PWD, NH Division, Agartala, Government of Tripura. This order further indicates that in exercise of power under Order I Rule 10(2) of CPC, name of PWD, NH Division was deleted and name of Officer-in-Charge, REAR Ex Setuk, 99 APO, Salbagan who represents the GREF, was inserted as judgment-debtor requiring department. It is surprising to note that on the very date on which GREF was impleaded as a party, the learned counsel of GREF was already present before the Court and assured that payment shall be made within a period of two months thereof. The order of attachment dated 01.05.2023 passed earlier was therefore stayed and the judgment-debtor was directed to make payment of the compensation amount within the next date positively with up to date interest. The application of GREF, more particularly

described as Officer-in-Charge, REAR Ex Setuk, in the array of parties, for deletion of his name from the execution case was rejected by the order dated 08.08.2023 which led GREF to prefer CRP No.43/2023. The said revision petition was disposed of on 22.12.2023 without interfering in the impugned order with the following observations:

“The opposite party No.1 has appeared upon notice and brought to the notice of the Court that in fact the acquisition under LA Act, 1894 was for the public purpose carried out by the petitioner agency. Though earlier its name was deleted in the LA case but during proceedings of the execution case, the learned Executing Court felt that the execution of the award required presence of not only the LA Collector, West Tripura, Agartala, respondent No.2 but also the petitioner herein. It is also pointed out from the order dated 08.08.2023 passed by the learned LA Judge, Sepahijala District, Bishalgarh that learned counsel for the petitioner i.e. Border Road Organization (BRO)/General Reserve Engineer Force (GREF) assured the Executing Court that the payment shall be made within a period of two months from the date of the order. On their assurance, the order of attachment dated 01.05.2023 was stayed with the specific directions that the judgment debtor shall make payment of the compensation amount within the next date positively with up to date interest. Later, on 08.05.2023, an application was made by the petitioner to delete itself from the proceedings of the execution case as it was not a party in the LA case i.e. Misc(LA) No.75 of 2015 GREF. Learned trial Court took into consideration that on 08.06.2023 on submission of learned counsel for the present judgment debtor, the requisitioning department, GREF was inserted as the judgment debtor deleting the name of PWD, NH Division, Agartala, Government of Tripura as PWD had already handed over the project to GREF. Again, GREF has filed the petition to delete its name as it was not a party to the original case at time of the judgment. Learned Court felt that handing over of the project from GREF to PWD or *vice versa* is their internal matter and, therefore, the Court cannot permit the requisitioning department to drag the case day after day without making any payment of the awarded amount, more so, when on the previous date the requisitioning department took adjournment for 2(two) months for making payment of the decretal amount. Therefore, they cannot deny their liability of making payment of the awarded amount. The petition was rejected with a direction to make the payment within 15 days.

On the one hand, Mr. Biswanath Majumder, learned counsel for the petitioner submits that since the petitioner was deleted during proceedings of the LA case, it should not be impleaded as a party during the execution case but he does not dispute that the acquisition was made for a public purpose being executed by the petitioner-organization. The site work was handed over to it by the PWD upon acquisition.

The land looser is entitled to compensation payable through the acquiring authority i.e. L.A. Collector. As such, it does not appeal to the court that the requisitioning department is not required to be present during the execution case.

As such, this Court is of the opinion that the petitioner does not have a tenable ground to object to his presence in the execution case. Whether the compensation amount stands deposited with the LA Collector or it is still in the pipeline for execution of the award are matters which are to be looked into by the Executing Court. As such, this Court does not intend to make any observation in that regard. Accordingly, this Court does not find any reason to interfere in the impugned order. Learned counsel for the petitioner submits that petitioner may be allowed to file a show-cause to the execution case. It is up to the petitioner to file its objection or show-cause as permissible in law before the Executing Court.

Accordingly, petition is dismissed. Pending application(s), if any, also stands disposed of.”

The show cause filed by the GREF before the Executing Court was rejected by order dated 25.01.2024 by the learned Executing Court in Ex(M) 02 of 2021. L.A. App. No.33/2024 was preferred by Union of India represented by the Officer-in-Charge, REAR Ex Setuk against the land owner and the LAC, Sepahijala District, Bishalgarh i.e. the petitioner in CRP No.79/2024. By judgment dated 24.06.2024, the learned Appellate Court held the appeal as not maintainable under Section 54 of the LA Act with the following observations:

“6. In the meantime, the present appellant challenging the order dated 25.01.2024 has preferred the appeal before the High Court. Now, for the sake of convenience, I would like to refer hereinbelow the relevant provision of Section 54 of LA Act which reads 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, an 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.”

From the aforesaid provision of law, it is very much clear that there is no scope to prefer any appeal against any order specifically the order dated 25.01.2024 by the appellant as the appeal may only be preferred against the judgment/award not against any particular order/orders. Since the legislative mandate is very much clear that against the order of any execution proceeding, there is no scope to prefer any appeal so I do not find any scope to entertain the present appeal preferred by the appellant before the High Court invoking Section 54 of the L.A. Act. It is necessary to mention here that the present appellant did not challenge the award passed in connection with case no.Misc(LA) No.75 of 2015 earlier. Even from the record of the Executing Court, it appears that the present appellant itself appeared before the Executing Court and was made as party and assured to meet up the decretal payment within a specified period which they failed to do so. Later on, challenged the same before the High Court which was also not allowed and the Learned Executing Court disposed of the objection on merit.

In view of the above, the appeal preferred by the appellant stands dismissed being devoid of merit as the same is not maintainable under Section 54 of the L.A. Act. The Learned Executing Court shall proceed to execute the award passed by the L.A. Judge in Misc(LA) No.75 of 2015 at an earliest convenience.

With this observation, the case is disposed of.

Send down the LCRs along with a copy of this judgment.

Pending applications, if any also stands disposed of.”

Proceedings in the execution case thereafter led to attachment of the movable/immovable properties of judgment-debtors i.e. L.A. Collector and GREF vide order dated 30.07.2024 which is impugned in CRP No.75/2024 by the LAC, Sepahijala District, Bishalgarh.

5. As noted in the opening paragraph of the order, this Court vide order dated 14.08.2024 in CRP 75/2024 stayed the operation of the order dated 30.07.2024 so far it related to attachment of the movable/immovable properties of LA Collector while issuing notice upon respondent No.1 who is the land owner. Mr. Bidyut Majumder, learned Deputy SGI, appeared on behalf of the respondent No.2-Union of India. Pursuant to the order dated 14.08.2024 passed by this Court, the learned Executing Court on the same day directed the bailiffs to remove the attachment immediately and furnish a report. This aggrieved the land owner to approach this Court in CRP No.79/2024.

6. During the proceedings of these revision petitions, vide order dated 29.08.2024, learned Deputy SGI was asked to seek instruction from GREF as to whether the awarded amount payable to the decree-holder/awardee has been deposited with the office of Land Acquisition Collector towards satisfaction of the award/decreed in the execution case. Learned Government Advocate was asked to obtain the certified copy of the records of the acquisition proceeding so far it relates to acquisition of land of Anil Plantation Private Limited–petitioner in CRP No.79/2024 and respondent No.1 in CRP No.75/2024. When the matter was taken up on 12.09.2024, learned Deputy SGI produced written instructions containing the letter dated 05.09.2024 which however fell short of offering a specific reply to the query posed by this Court vide earlier order dated 29.08.2024. This Court thereafter gave one more indulgence to the said respondent to come clear on this issue. Learned Government Advocate also undertook to file an affidavit containing the relevant information as to the acquisition made and deposits, if any, made by the indenting department. Today when the matter has been taken up, learned

Deputy SGI has produced a letter dated 17.09.2024 with three enclosures containing the stand of GREF on this issue. The letter is extracted hereunder as it is self-explanatory in nature:

“22031-A/755 TF/Misc (LA) 75/2015/118/LC

17 Sep 2024

Shri Bidyut Majumder, DSGI
High Court of Tripura
Tripura (Agartala)
E-mail: Majumderbidyut16@gmail.com

COURT CASE NO. CRP NO. 79 OF 2024 FILED BY ANIL PLANTATION PVT. LTD VS LA COLLECTOR AND ANOTHER & CRP NO. 75 OF 2024 FILED BY LA COLLECTOR AND ANOTHER VS ANIL PLANTATION PVT. LTD & ANOTHER BEFORE THE HON'BLE HIGH COURT OF TRIPURA AGARTALA

Sir

1. Please refer to your letter No. Nil dated 12 Sep 2024.

2. It is submitted that the awarded amount Rs. 3,77,53,070/- (Rupees Three Crore Seventy Seven Lakh Fifty Three Thousand and Seventy only) as assessed by LA Collector, Sepahijala vide their letter No.F.9(09)/DM/SPJ/LAW/(LA)/22/4948-56 dated 05 Aug 2024 has not been deposited with LA Collector by our department due to following reasons:-

(a) The road Agartala by pass in Tripura State alongwith Court cases was handed over by BRO to State PWD, NH Division on 23 Mar 2017 and same has been further handed over to NHIDCL by Tripura State PWD, NH Division on 28 Mar 2019.

(b) No any on going works are under taken by BRO in the State of Tripura, hence acquisition of land by BRO by making payment of compensation to the land in question may become vague.

(c) As per the LA Judge District Court Bishalgarh order dated 07 Feb 2020 in the case of Misc (LA) 75/2015 for making enhanced compensation payment to the petitioner, BRO is not respondent to implement the Court order where as the Executive Engineer State PWD, NH Division and LA Collector, West Tripura District, Agartala were the respondents in the said order.

(d) The present care taker of the road Agartala by pass is NHIDCL. Moreover, in the letter of DM & Collector, Sepahijala District (LA) 22/11918-29 dated 26 Sep 2023 (Copy enclosed) in which it is stated that as per survey report conducted by the DCM, Bishalgarh Revenue Circle dated 10 Jul 2023, it is observed that out of total acquired Land of 5.06 acres (Land in question) for construction of BRO Camp, the land measuring 2428 square metre (i.e.) 0.60 acres has already been acquired in favour of NHIDCL for development of NH-8 for which the land owner namely Anil Plantation Pvt Ltd has already been awarded an amount of Rs.58,91,931/-

(e) Accordingly, the case has been taken up with our higher authorities for obtaining final decision to file an appeal in appropriate Court of law or otherwise. On receipt of final decision from higher authorities/Ministry, the necessary action will be taken by the department.

3. Therefore, you are requested to apprise the Hon'ble Court of Tripura, Agartala during next date of hearing (i.e.) on 20 Sep 2024 accordingly and obtain sufficient time from Hon'ble Court for our further action, please.

Encl: 3 Sheets

(Devendra Kumar)
EE (Civ)
JD Legal
For Chief Engineer”

The instructions along with the enclosures are also kept on record. An additional affidavit has been filed by the LAC through learned Government Advocate Mr. Bhattacharyya in CRP No.75/2024, the gist of which is being referred to hereinafter.

7. The additional affidavit states that after receiving the proper requisition from the requiring authority i.e. EE (Civ), Officer Commanding, Road Construction Coy (GREF) vide No.201/A/LA ACQ/05/E2 dated 22.07.2005 for land measuring 5.06 acre, in connection with setting up of establishment of camp for bye-pass under Bishalgarh Sub-Division, in the interest of public, along with the declaration made by the requiring agency in regard to availability of fund for acquisition of land, the Land Acquisition Collector, West Tripura empowered under Section 3C of the LA Act, 1894 had taken up the process of acquisition of this quantum of land following the provisions laid down in the Act. Accordingly, notification under Section 4 and declaration under Section 6 of the Act of 1894 was made with concurrence of the Revenue Department, Government of Tripura vide reference dated 13.03.2006 and 13.06.2006 respectively. After completing the acquisition process, award was prepared under Section 11 having due regard to the provisions under Section 23, 23(1-A) and sub-Section 2 of the Act for an amount of Rs.28,22,954/- only in favour of the land owner Anil Plantation Private Limited. Prior to preparation of the award, notice to persons interested had also been issued under Section 9 of the LA Act, 1894 and they were duly heard and accordingly an assessment note was prepared. The relevant notifications and assessment note are annexed as Annexure-2, 3 & 4. The award was prepared on 04.10.2007 and compensation was disbursed on 27.06.2008 by

the LAC, West Tripura. The acquired land was handed over to the requiring agency on 26.11.2007. Being aggrieved with the awarded amount, land owner sought reference under Section 18 of the LA Act. The LAC referred the matter to the learned LA Judge, West Tripura on 29.10.2014. Annexure-5 & 6 are enclosed in support. The learned LA Judge, Sepahijala District, Bishalgarh passed judgment & order on 07.02.2020 in Case No. Misc (LA) 75 of 2014. In compliance of the order, the LAC, Sepahijala prepared calculation sheet for an amount of Rs.3,46,59,326/- only and communicated with the requiring agency vide letter dated 24.06.2021 followed by reminder dated 25.04.2022 and finally reminder dated 08.08.2022, but with no response. The relevant documents are enclosed as Annexure-7 to 12 respectively. Thereafter, the L.A. Judge, Sepahijala District, Bishalgarh vide order dated 04.11.2022 passed in Civil Misc. 07 of 2022 directed fresh calculation sheet to be prepared for an amount of Rs.3,77,53,070/- only. It was accordingly communicated to the requiring department for placement of funds through letter dated 14.04.2022, reminders dated 23.12.2022 & 15.03.2023 which are enclosed as Annexure-13 to 18 respectively. In response, a communication was received from the requiring agency vide letter dated 17.06.2023 that the road along with necessary documents relating to aforesaid case had been handed over to PWD (NH) on 27.03.2017. It was stated that the responsibility of the instant case being Civil Misc. 07 of 2022 arising out of Misc (LA) 75 of 2014 is now with PWD, NH Division, Agartala, West Tripura. A communication was then made by the LAC, Sepahijala on 01.07.2023 with the Executive Engineer, PWD, NH Division, Agartala for placement of the decretal amount. In response thereof, vide letter dated 07.08.2023, the PWD, NH Division, Agartala informed that as

per Gazette Notification dated 20.08.2018 of MoRTH, GOI, the PWD, NH Division, Agartala handed over Agartala Bye-Pass road including all Court cases to NHIDCL, Agartala on 28.03.2019. It also stated that all Court cases pertaining to Agartala Bye-Pass road including Case No. Civil Misc. 07 of 2022 arising out of Misc (LA) 75 of 2014 would be the sole responsibility of NHIDCL, Agartala. The notified plot measuring 5.06 acre relating to land as acquired on behalf of EE (Civ), Officer Commanding, Road Construction Coy (GREF) for establishment of Camp for Bye-Pass under Bishalgarh Sub-Division in regard to Misc. (LA) 75 of 2014 was instituted. A land measuring 0.60 acre was also acquired for development of NH-8 under NH Act, 1956 (as per requisition submitted by NHIDCL) and award for an amount of Rs.58,91,931/- only was also paid to the land owner namely Anil Plantation Private Limited (claimant-petitioner in Misc. (LA) 75/2014). Thus, a communication was made on 31.08.2023 by the LAC with the Executive Director (Project), NHIDCL for placement of fund of (Rs.3,77,53,070-Rs.58,91,931)=Rs.3,18,61,139/- only. These documents are enclosed as Annexure-19 to 23. Thereafter, DGM (P), NHIDCL Regional Office, Agartala vide letter dated 06.09.2023 informed LAC, Sepahijala that NHIDCL had handed over 72 nos. of Court cases relating to Agartala Bye-Pass Road, Agartala-Sabroom, Kumarghat-Kailashahar Road to BRO including the case Misc (LA) 75 of 2014 [Annexure-24]. Thereafter, communication with the requiring agency i.e. the Chief Engineer, Project Pushpak, Zemabawk, Aizawl, Mizoram was made vide letter dated 26.09.2023 followed by reminders dated 31.01.2024, 23.02.2024 and 28.03.2024, but no response was received from the requiring department. These documents are enclosed as Annexure-25 to 28.

Based on these averments and the documents annexed thereto, the LAC has stated that after passing of the judgment dated 07.02.2020 by the learned Court below in Misc (LA) 75 of 2014, the LA Collector has made serious attempts asking the requiring department for placement of fund for making necessary payment of decretal award to the land owner. Continues efforts had been made by the LAC for making payment of the decretal amount for which several communications have been made with the requiring agency prior to passing of the attachment order dated 30.07.2024. Thereafter, the impugned order dated 30.07.2024 was passed directing attachment of the movable/immovable properties of the LA Collector as also the GREF. Therefore, the LAC is not responsible for any delay in payment of enhanced compensation as per the Award passed by the LA Court.

8. It is further stated by the LAC that in compliance of the order dated 30.07.2024 passed by the L.A. Court in the execution case, a communication has been made with the Chief Engineer, Project Pushpak, Zemabawk, Aizawl, Manipur being the authority on behalf of requiring agency for the very land vide office letter dated 01.08.2024 for placement of decretal amount. However, no response was received. Thereafter, the Deputy Secretary to the Government of Tripura, Revenue Department also communicated the matter with the Director General, Border Roads, New Delhi vide letter dated 09.08.2024 with a request to place the fund immediately [Annexure-33]. In the meantime, an interim order was passed by this Court in CRP No.75/2024 as the functioning of the LA Collector's office had become crippled due to the attachment order. The LAC has received a letter on 19.08.2024 from the Lieutenant Colonel, JD Legal for Chief Engineer, headquarters at Chief

Engineer Project Pushpak to the effect that the concerned agency is contemplating to file an appeal before the Apex Court against the order passed in the execution case. On the other hand, Officer-in-Charge, REAR Ex Setuk through its letter dated 17.08.2024 has requested for up to date calculation sheet of the decretal award and based on that, a draft calculation sheet/decretal award has been prepared for an amount of Rs.4,08,07,961/- only. These documents are at Annexure-35 to 37 in the additional affidavit filed by the LAC in CRP No.75/2024.

9. In the background facts now being placed on behalf of the respondent-Union of India and the LAC, it is pertinent to recapitulate at this stage that vide order dated 08.06.2023 passed by the learned Executing Court, PWD, NH Division, Agartala, Government of Tripura, which was a party in the reference case Misc.(LA) 75 of 2014, was deleted and GREF was impleaded in exercise of powers under Order I Rule 10(2) of the CPC by the learned Court. On the same date, a learned counsel who was present in Executing Court at the time of passing of the order appeared for GREF and assured that payment shall be made within a period of two months from that date. Thereafter, the series of litigation arose; first of which came before this Court in CRP No.43/2023. In the narration of dates and events made above, reference has also been made to the order dated 22.12.2023 passed in CRP No.43/2023 instituted by the Officer-in-Charge, REAR Ex Setuk, i.e. GREF. That show cause or objection filed by the GREF stood rejected by the learned Executing Court which was made subject matter of LA App. No.33 of 2024 before this Court. The learned Appellate Court vide judgment dated 24.06.2024 held the said appeal to be not

maintainable under Section 54 of the LA Act, reference whereof has also been made in the preceding paragraphs.

10. Now as the situation stands, the initial requisition for acquisition was made by GREF in the year 2005. Acquisition was made, award was passed and compensation was distributed in favour of the land owner on 27.06.2008. At the instance of the land owner, reference was made under Section 18 of the LA Act, 1894 to the LA Court by the LAC. Misc.(LA) 75 of 2014 was decided by the LA Court, Sepahijala District, Bishalgarh by enhancing the compensation amount. The operative part of the award dated 07.02.2020 has been extracted hereinabove as well. At the sake of repetition, it is once again stated that in the Misc.(LA) 75 of 2014 besides the respondent No.2, the LAC, West Tripura, the Executing Engineer, PWD, NH Division, Agartala, Government of Tripura was also a party. However, during proceedings of the executing case by order dated 08.06.2023, PWD, NH Division, Agartala, Government of Tripura was deleted and GREF was made a party. As noted earlier, this has led to the genesis of several litigations from one or the other order passed by the learned Executing Court.

11. This Court at this stage refrains from making comment upon the liability of any of the parties for satisfaction of the enhanced compensation awarded under judgment dated 07.02.2020 passed in Misc.(LA) 75 of 2014. The responsibility for satisfaction of the award is being shifted from one party to another party during course of the proceedings of the execution case. However, this Court is of the considered opinion that given the sequence of facts now brought to the notice of this Court - both through the written

instruction contained in the communication dated 17.09.2024 placed by learned Deputy SGI and the chronology of facts and events detailed in the additional affidavit of the LAC, and the pleadings of the revision petitioner, deletion of PWD, NH Division, Agartala, Government of Tripura at that stage of the execution proceeding did not help the Executing Court in going to the root of the matter as to the liability of the concerned agency for satisfaction of the award. The chronology of facts and events narrated in the foregoing paragraphs on the basis of the written instruction dated 17.09.2024 furnished by learned Deputy SGI and the additional affidavit filed by LAC also creates an impression that at some stage of the proceedings, NHIDCL was also involved. Whether the liability to satisfy the award lies with GREF or the PWD, NH Division, Agartala, Government of Tripura which was a party in Misc.(LA) 75 of 2014 or upon NHIDCL is a question to be determined by the learned Executing Court after considering the stand of the respective parties based upon the materials placed before it. This could only lead to a just and proper execution of the award of enhanced compensation passed by the learned L.A. Judge in Misc.(LA) No.75 of 2014/2015.

However at this stage, it is apparent that attachment of the movable and immovable properties of the LA Collector is unlikely to lead to the satisfaction of the award in the above state of affairs when LAC has been diligently pursuing the matter with the concerned agencies for disbursement of the amount awarded. The LA Collector is required to place on record all documents relating to the acquisition proceedings right from the requisitioning process till the disbursement of original award, the reference to the LA Court under Section 18 and communications made between LA Collector, GREF, NHIDCL and the

PWD, NH Division, Agartala, Government of Tripura before the learned Executing Court to enable it to come to a finding as to the liability of the concerned party(s) to satisfy the award passed by the learned LA Court.

12. As such, on the basis of the facts and circumstances noted above and for the reasons recorded, the impugned order dated 30.07.2024 passed by the learned Executing Court attaching the movable and immovable properties of the LA Collector is set aside. The matter is remitted to the learned Executing Court for consideration on the issue of impleadment of the other parties referred to above and come to a conclusion as to the liability of the GREF or PWD, NH Division and/or NHIDCL for satisfaction of the award for enhanced compensation passed by the learned LA Court in Misc.(LA) 75 of 2014. The elaborate discussion made hereinabove is a pointer that these aspects were required to be thoroughly dealt with by the learned Executing Court to ensure that the award is promptly executed and multiplicity of proceedings are avoided due to passing of interlocutory orders one way or the other. It is important to refer to the judgment of the Hon'ble Supreme Court in the case of ***Rahul S. Shah v. Jinendra Kumar Gandhi and Others*** reported in ***(2021) 6 SCC 418*** at paragraphs 42, 42.1 to 42.14 which directs the Executing Court to ensure execution of the decree in a time bound manner.

13. These civil revision petitions are accordingly disposed of with the aforesaid observations and directions.

(APARESH KUMAR SINGH), CJ

Pijush/

DIPESH DEB Digitally signed by DIPESH DEB
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