

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 604 of 2024

Shri Swapan Sarkar and others Petitioner(s)

Versus

State of Tripura and others Respondent(s)

For Petitioner(s) : Mr. P. Ray, Advocate
Ms. A. Debbarma, Advocate

For Respondent(s) : Mr. M. Debbarma, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

23.09.2024

The present petition is filed under Article 226 of the Constitution of India seeking following reliefs:

- "i. Issue Rule upon the Respondents to show cause as to why writ in the nature of mandamus and/or order/direction shall not be issued whereby Directing the Respondents No.1 to 4 to release the award money of Rs.79,15,938/-(Rupees seventy nine lacs fifteen thousand nine hundred thirty eight) only @ Rs. 39,57,969/-(Rupees thirty nine lacs fifty seven thousand nine hundred sixty nine) only to Sri Swapan Sarkar and @ Rs.9,89,492.25(Rupees nine lacs eighty nine thousand four hundred ninety two and paisa twenty five) only each to the 4(four) legal heirs of Lt. Mishan Sarkar, namely,- 1) Rina Sarkar (wife) 2) Rajesh Sarkar (Son) 3)Sampa Rani Sarkar (Daughter) 4) Soma Sarkar (daughter) against Apportionment Sl. No. 03 in case No.L.A.01/ SDR/18 with 9% interest P.A. from the date of taking over of the possession of the land for first year and 15% interest P.A. for rest period till to payment.
- ii. Make the rules absolute.
- iii. Call for records....."

[2] It is the case of the petitioners that the land of the petitioners was acquired by the respondents. The Land Acquisition Collector, West Tripura, Govt. of Tripura, respondent No.3 herein issued notice vide No.2941/D.M/W/L.A/SDR/01/2015 dated 02.08.2018 mentioning that as per notification of the Government in the Revenue

Department, dated 10.07.2018, the land measuring 0.210 Acre vide Dag No.4245, Class- Nal, under Khatian No.1263/1,4, in Ramnagar Tehashil, Mouja-Ramnagar, Sheet No.2/P, will be acquired for the development of Integrated Check Post (ICP), Agartala U/S 19(1) of the RFCTLARR Act, 2013. By the notice, Rayati Abdul Aziz & Ors, Permissible Occupier- Mishan Sakar@ Mishan Chandra Sarkar and Swapan Sarkar S/O Debesh Ch. Sarkar, were asked to appear with necessary documents at Ramnagar Tehashil on 05.09.2018 at 11:30 AM for giving necessary opinion on the matter. Accordingly, as per the notice dated, 02.08.2018, Mishan Sarkar @Mishan Chandra Sarkar and Swapan Sarkar appeared at Ramnagar Tehashil on 05.09.2018 and gave consent for acquisition of the said land by the Government.

[3] It is contended in the petition that, Abdul Aziz & others were the original owners of the above referred land notified for acquisition. But, when Debesh Chandra Sarkar S/O Lt. Haricharan Sarkar was alive, he by an unregistered Deed of Exchange dated, 30.05.1964, exchanged the property left behind him in East Pakistan (Now Bangladesh) with the property of Abdul Aziz & others at Agartala and thereafter, Debesh Ch. Sarkar took the possession of the land of Abdul Aziz and others at Agartala and Abdul Aziz & others also left India i.e., Agartala, Tripura and started living at erstwhile Pakistan (Now Bangladesh). It is further contended that since 30.05.1964 Debesh Ch. Sarkar was the possessor and owner of the said land, after his death his 2(two) sons namely, Mishan Sarkar @Mishan Chandra Sarkar and Swapan Sarkar being legal heirs became absolute joint owners and possessors of the said land.

[4] The L.A. Collector, West Tripura, Agartala, respondent No.3 herein vide No.F.No.DM/ W/LA/SDR/01/15/Vol-1/1456 dated, 15.07.2019, issued notice to Rayati- Abdul Aziz & Ors, Permissible Occupier- Mishan Sarkar @ Mishan Chandra Sarkar and Swapan Sarkar, sons of Debesh Ch. Sarkar of Ramnagar, to vacate and deliver the possession of the acquired land of 0.210 Acre, Plot No.4245 under Khatian No.1263/1,4 before the evening of the 30.07.2019 to the representative of the L.A. Collector, West Tripura, Agartala. The L.A. Collector, West Tripura, Agartala further vide F.No. DM/ W/LA /SDR/01/15/Vol-1/1467 dated, 15.07.2019 issued notice to Rayati- Abdul Aziz & others, Permissible Occupier-Mishan Sakar @ Mishan Chandra Sarkar & Swapan Sarkar sons of Debesh Ch. Sarkar, to appear before the S.D.M, Sadar office on 20.07.2019 with all required testimonial, bank details etc in connection with the receipt of the awarded compensation of Rs.79,15,938/-(Rupees seventy nine lacs fifteen thousand nine hundred thirty eight) only against Apportionment Sl. No.03 in case No.L.A.01/SDR/18. It is contended that Mishan Sarkar @ Mishan Chandra Sarkar and Swapan Sarkar attended S.D.M. office on 20.07.2019 and discussed with the concerned dealing officials with the documents in hand, and during discussion it is learnt that as name of Abdul Aziz & others recorded as Rayati in the Govt. records, so without correction of the records award money cannot be disbursed at that point of time. It is further mentioned that possession of aforesaid acquired land had been already taken by the Government but award money has not yet been disbursed. According to the petitioners, in terms of the Khatian No.1263/4, Mishan Sarkar @ Mishan Chandra Sarkar & Swapan Sarkar are the absolute owners and possessors of the

acquired land against Apportionment Sl. No. 03 in case No. L.A.01/SDR/18 and accordingly they are entitled to get the total award money of Rs.79,15,938/- (Rupees seventy nine lacs fifteen thousand nine hundred thirty eight) only in admissible proportionate share.

[5] Mishan Sarkar @ Mishan Ch. Sarkar son of late Debesh Ch. Sarkar died on 16.02.2023 and Registrar (Birth & Death), Agartala Municipal Corporation issued death certificate on 28.02.2023. He died leaving behind his wife, one son and two daughters as his legal heirs and thereafter, survival certificate to that effect has also been issued. It is contended that all the legal heirs of late Mishan Sarkar @ Mishan Ch. Sarkar son of late Debesh Ch. Sarkar are jointly entitled to get 50% of the total award i.e. Rs.39,57,969/- individually in four equal shares and Shri Swapan Sarkar, son of late Debesh Ch. Sarkar is entitled to get remaining 50% amounting to Rs.39,57,969/-. The petitioners submitted a prayer on 21.06.2024 to the respondents seeking release of award money of Rs. 79,15,938/- only in proportionate share within 30 days from the date of receipt of the prayer. Since the prayer of the petitioners has not been considered by the respondents till date, they have approached this Court by filing the instant writ petition.

[6] Heard learned counsel appearing for the parties.

[7] When this Court has pointed out that the petitioners have to show the ownership document upon which they are making claim-statement, learned counsel for the petitioners has produced Xerox copy of an unregistered sale-deed of the year 1964. It is settled principle of law that such unregistered document cannot be considered in the eye of law to declare the petitioners as lawful owners. The khatiyon which is

placed on record, is only a revenue entry and it is not a title document. However, the petitioners are given liberty to place any ownership document including the succession of the property to the concerned respondents since the petitioner No.1 is claiming that his father was the original owner of the land in question. On receipt of such documents from the petitioners, the concerned respondents shall decide the matter on merits in accordance with law as expeditiously as possible preferably within a period of three months.

With the above directions, the present petition is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE

