

**HIGH COURT OF TRIPURA
AGARTALA**

CO(FA) 8 of 2024

Sri Swapan Lal Singha

---Petitioner(s)

Versus

The Member Dy. Secretary (I/C)

---Respondent(s)

For Appellant(s)	:	Mr. A. De, Advocate.
For Respondent(s)	:	Mr. B. Bhattacharjee, Sr. Advocate. Mr. Soumyadeep Saha, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

29.11.2024

Heard learned counsel appearing for the parties.

[2] This is a cross objection on behalf of the claimant respondents cross objector under order XLI rule 22 of CPC against the Land Acquisition appeal filed under Section 54 of the Land Acquisition Act, 1894 against the Judgment and award dated 17/12/2021 passed by the Ld. Land Acquisition Judge, West Tripura Agartala Court no- 2 in Civil Misc. (LA) 169 of 2016, wherein the Ld. Land Acquisition Judge awarded Rs.1 crore 50 lakh per kani along with other statutory benefit which is a meager amount the cross objector claimant respondent filed this cross objection claimed for enhancement of awarded amount to the extent of Rs.2 crore 50 lakh and along with statutory benefit and solatium as per law.

[3] At the very outset, Mr. D. Bhattacharjee, learned senior counsel has placed his reliance on Order XLI Rule 22(1) of CPC and submitted that even before the appeal is admitted and notices were issued by the court below or the counsel served notices upon the respondent-claimant, the cross objection has been filed and the same is premature at this stage. He further prayed to dismiss the cross objection as it is not maintainable. For ready reference, Oder XLI Rule 22 (1) is extracted herein below:

“22. Upon hearing respondent may object to decree as if he had preferred separate appeal. (1) Any respondent, though he may not have appealed from any part of the decree, may not only support the decree 669 [but may also state that the finding against him in the Court below in respect of any issue ought to have been in his favour; and may also take any cross-objection] to the decree which he could have taken by way of appeal, provided he has filed such objection in the Appellate Court within one month from the date of service on him or his pleader of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow.”

[4] On the other hand, Mr. A. De, learned counsel appearing for the appellant has submitted before this court he received the appeal along with condone delay application yesterday. On receipt of such application, he has gone through the case awarding the claimant by the court below. While going through the record, it came to his notice that the quantum of amount awarded by the court below is much less but the claimant is entitled for more. Accordingly, the cross objection has been filed.

[5] Now, the point which falls for consideration is the implementation of Order XLI Rule 22 (i) of the CPC. The cause of action for filing this cross objection is before the said appeal is admitted and notices are issued. It cannot be construed that mere serving paper of condone delay application gives a right to the petitioner for filing a cross objection. Moreover, if the condonation application is dismissed the filing for cross objection does not arise. Hence this court feels that the argument as advanced by Mr. D. Bhattacharjee, learned senior counsel has weightage and submission made by Mr. A. De, learned counsel are negative.

[6] In view of the above, the cross objection stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE