



Serial No.07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No.102 of 2017

Date of Order: 08.08.2024

1.Smt. Mary D. Marak
aged about 40 years, resident
of Songsak Wagopgre,
Songsak A'king land
Williamnagar, East Garo Hills,
Meghalaya.

2.Shri. Nicolash Ch. Marak
aged about 45 years, resident
of Songsak Wagopgre,
Songsak A'king land
Williamnagar, East Garo Hills,
Meghalaya.

3.Shri. Hudshon Sangma
aged about 50 years, resident
of Songsak Wagopgre,
Songsak A'king land
Williamnagar, East Garo Hills,
Meghalaya.

4. Shri. Pangsrang Sangma
aged about 35 years, resident
of Songsak Wagopgre,
Songsak A'king land
Williamnagar, East Garo Hills,
Meghalaya.

.....WRIT PETITIONERS.

Vs. 1.The State of Meghalaya represented by
the Chief Secretary, Government of
Meghalaya, Shillong, Meghalaya.

2.The Under Secretary to the
Government of Meghalaya, Revenue
and Disaster Management Department
Government of Meghalaya, Shillong.

3. The Deputy Secretary to the
Government of Meghalaya, Revenue
and Disaster Management Department,
Government of Meghalaya, Shillong.

4. The Collector/Deputy Commissioner,
East Garo Hill District, Williamnagar.

5. Extra Assistant Commissioner (EAC)
East Garo Hills Williamnagar.

6. Chief Engineer National Highway(NH)
Public Work Department (Roads)
Government of Meghalaya, Shillong.

....RESPONDENTS.

7. The Garo Hills Autonomous District
Council, Tura represented by its
Secretary, Tura.

.....PRO-FORMA RESPONDENT.



Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. H. L. Shangreiso, Sr. Adv.with
Ms. P. Biswakarma, Adv.

For the Respondent(s) : Mr. K. Khan, AAG with
Mr. S. Sengupta, Addl. Sr. GA.
Mr. K. P. Bhattacharjee, GA.

ORAL:-

Heard Mr. H. L. Shangreiso, learned Senior Counsel assisted by Ms. P. Biswakarma, learned Counsel appearing for the petitioner and also Mr. K. Khan, learned AAG assisted by Mr. S. Sengupta, learned Addl. Sr. GA appearing for the State-respondents.

The petitioners claim to be owners of certain plots of land which were acquired by the respondents by the land acquisition proceeding initiated vide notification No.RDA.21/2012/52 dated 14-03-2013 issued under Section 4 and notification No. RDA.21/2012/83 dated 23-05-2013 issued under Section 6 of the Land Acquisition Act, 1894 for construction of two-lane Shillong-Nongstoin Section of NH-44 and Nongstoin-Rongjeng-Tura under Phase "A" of SARDP-NE. The grievance raised by the petitioner are that they have not been paid any compensation for their plots of lands acquired for the purpose of construction of the road.



The stand of the petitioners is that they hold certain stretch of lands running along with the NH-44 but their names were not included in the list of beneficiaries for payment of compensation. The learned Counsel for the petitioners contended that during the course of the acquisition proceeding, notices under Section 9 of the Land Acquisition Act, 1894 were issued to the petitioners requiring them to appear before the respondent No.4 for stating the nature of their respective interest in the lands acquired and the amount and the particulars of their claims to compensation for such interest. However, in spite of issuance of notices under Section 9 of the Land Acquisition Act, 1894, the petitioners were not afforded any opportunity to be heard although they were present on the date fixed for their presence before the respondent No. 4. The learned Senior Counsel further contended that a representation dated 13-07-2013 was filed by the petitioners before the respondent No.4 for affording them a chance of hearing and for payment of compensation for their land taken over by the acquisition proceeding but the respondent No.4 did not consider the said representation. It is further contended that the petitioners had no knowledge of date of making of award in the said acquisition proceeding and because of that they were not in a position to raise any immediate grievance against non-inclusion of their names in the list of beneficiaries for payment of compensation. It is submitted that the respondent No.4 was under lawful obligation to afford an opportunity of hearing to the petitioners since they were issued with the notices under Section 9 of the Land Acquisition Act, 1894 but the respondent No.4 had proceeded to prepare the award in the matter without performing his lawful duty as stipulated by law. The learned Senior Counsel, thus, prayed that a direction may be issued to the respondents, particularly the respondent No.4 to consider the claims of the petitioners and pass necessary order for payment of adequate compensation.



Mr. K. Khan, learned AAG submitted that the petitioners have approached this Court without giving any details of ownership of the properties claimed by them and there is no document annexed with the writ petition to *prima facie* show that the petitioners hold any plots of lands falling within the stretch of land acquired by the Government for the construction of the Shillong-Nongstoin Section of NH-44 and Nongstoin-Rongjeng-Tura Road. The learned AAG submitted that in absence of any *prima facie* proof of ownership of land, the writ petition deserves no consideration. The learned AAG further submitted that the notices under Section 9 of the Land Acquisition Act, 1894 was wrongly issued to the petitioners and the said notices were not based on the list of beneficiaries mentioned in the notifications issued under Section 4 and Section 6 of the Land Acquisition Act, 1894. He contended that mere issuance of notices under Section 9 does not create or confer any right on the petitioners to claim compensation. He submitted that as per the records of the acquisition proceedings, none of the petitioners own or possess any plot of land within the acquired portion of the land. It is also the submission of the learned AAG that if the petitioners have any claim for payment of compensation, they should avail the remedy by making use of the related provisions of the Land Acquisition Act and not by filing a writ petition. He submits that there is no merit in the writ petition and the same deserves to be dismissed forthwith.

The writ petition reveals that the petitioners have not given any description of properties owned by them and there is no document to support their claim of ownership of plot of land situated within the stretch of land acquired by the State for construction of Shillong-Nongstoin Section of NH-44 and Nongstoin-Rongjeng-Tura Road. During the course of hearing of the matter, the State-respondents produced the record of the acquisition proceeding. A perusal of the record disclosed that the final award has been made in the matter



containing the details of the individuals who were granted compensation but there is no mention of the date on which the award was made. At the hearing, the learned AAG was also unable to clarify as to the actual date of award. However, the preparation of the final award in the matter is not disputed by the petitioners and as per the submission of the learned AAG, made on the basis of the record of the acquisition proceeding, many of the beneficiaries have already received the compensation awarded to them. Since, there is no mention of date on which the final award was made, the petitioners cannot be blamed for not raising their grievances before the respondent No.4 at the appropriate point of time of making of the award or immediately thereafter.

The case of the petitioners in the present matter, in a nutshell, is about non-payment of compensation. While the petitioners claim that their respective plots of lands were taken over by the State for the purpose of construction of Shillong-Nongstoin Section of NH-44 and Nongstoin-Rongjeng-Tura Road, the State contends that the petitioners do not own or possess any plot of land situated within the stretch of the land acquired for the purpose of construction of the said road. The dispute between the parties appears to be of such nature falling under the purview of Section 30 of the Land Acquisition Act, 1894 and Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Both the aforesaid provisions of law are in *pari materia* and lay down that when the compensation has been settled and there arises a dispute as to the apportionment of the same or in part thereof, or as to the person to whom the same or any part payable, the Collector may refer the same dispute to the authority prescribed by law. Thus, the grievance raised by the petitioners needs to be addressed in accordance with the provisions of the aforesaid law. Moreover, in the facts and situation of the case, no case has been made out by the petitioners at this stage for passing of



any direction for payment of compensation in exercise of writ jurisdiction of this Court.

In the present case, it appears that the petitioners have filed a joint representation on 13-07-2013 to the respondent No.4. However, there is nothing on record to indicate that the petitioners have filed any application in terms of Section 30 of the Land Acquisition Act, 1894 or Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for consideration of their case by the authorities prescribed under the law. Since, the grievance raised by the petitioners is in relation to claim of compensation for landed properties claimed by them, it would be open to the petitioners to approach the respondent No.4 by filing application in terms of the provisions of law laid down in Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 seeking reference of the dispute to the Authority as per law.

It is provided that in the event of filing of any such application by the petitioners, the same shall not be rejected on the ground of delay and laches on the part of the petitioners and the respondent No.4 shall take a decision on merit in accordance with law. In case, the petitioners file application in accordance with the view taken hereinabove, the same shall be filed within a period of 30 (thirty) days from the date of passing of this order. The respondent No.4, upon filing of any such application by the petitioners, shall dispose of the same within a period of two months from the date of filing of the application.

With the aforesaid, this writ petition stands disposed of.

No Costs.



Judge

Meghalaya
08.08.2024
“Biswarup PS”

