



Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No.239 of 2020

Reserved on : 17.09.2024
Date of Decision: 04.10.2024

-
1. Struck off vide order 02.09.2024.
 2. Struck off vide order 02.09.2024.
 3. Struck off vide order 02.09.2024.
 4. Smt Marcellia A Sangma.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 5. Smt Miscilla Ch Marak.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 6. Shri. Ragatdo Sapsengra Ch Marak.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 7. Shri. Topward M Marak.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 8. Smt. Pinchi Balsera Ch Marak.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 9. Shri. Brara Bawendi Ch Marak.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 10. Smti. Bristy Banme B Marak.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
-



11. Shri. Sunil Louis K Sangma.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 12. Smti. Ayshalina M. Sangma.
D/o(L) Crysilda M. Sangma
Aged about 32 years.
Resident of Chitoktak, Tura,
West Garo Hills District, Meghalaya.
(Substituted vide Court's order dated 04-8-2022)
 13. Struck off vide order 02.09.2024.
 14. Struck off vide order 02.09.2024.
 15. Struck off vide order 02.09.2024.
 16. Struck off vide order 02.09.2024.
 17. Struck off vide order 16.04.2021.
 18. Struck off vide order 02.09.2024.
 19. Struck off vide order 02.09.2024.
 20. Struck off vide order 02.09.2024.
 21. Struck off vide order 02.09.2024.
 22. Struck off vide order 02.09.2024.
 23. Chitoktak Community Hall
C/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
 24. Shri. Mathew M. Sangma.
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya.
-



25. Smt Philmitha A. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
26. Smt Betsie Rose Ch. Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
27. Dr. Zeetha M. Sangma
R/o Dura/Chasingre Akhingland, West Garo Hills District,
Meghalaya
29. Struck off vide order 02.09.2024.
30. Struck off vide order 02.09.2024.
31. Struck off vide order 02.09.2024.
32. Struck off vide order 02.09.2024.
33. Smt Veronica M. Sangma
R/o Dura/Chasingre Akhingland, West Garo Hills District,
Meghalaya
34. Smt Zothampari D Shira
R/o Ganolgre Akhingland, West Garo Hills District, Meghalaya
35. Struck off vide order 02.09.2024.
36. Smt Marthina G Momin
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
37. Shri Trevor T Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
38. Shri Perolish M Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
39. Smt Premollina Ch Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya



40. Smt Chingchi Ch. Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 41. Struck off vide order 02.09.2024.
 42. Smt Minonish Ch. Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 43. Shri Fixture A. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 44. Shri Clasom T. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 45. Smti Lesilda Ch Marak.
M/o (Smt Sandilla Ch. Marak)
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 46. Smt Rosallin A. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 47. Struck off vide order 02.09.2024.
 48. Struck off vide order 02.09.2024.
 49. Shri Havard Sangma.
R/o Chibragre Akhingland, West Garo Hills District, Meghalaya
 50. Smt Kenchida N Sangma.
R/o Chibragre Akhingland, West Garo Hills District, Meghalaya
 51. Struck off vide order 02.09.2024.
 52. Struck off vide order 14.03.2024.
 53. Struck off vide order 02.09.2024.
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54. Struck off vide order 14.03.2024.

55. Struck off vide order 02.09.2024.

56. Struck off vide order 02.09.2024.

57. Struck off vide order 02.09.2024.

58. Struck off vide order 02.09.2024.

59. Smt Esabella N Marak

R/o Ganolgre Akhingland, West Garo Hills District, Meghalaya

60. Struck off vide order 02.09.2024.

61. Struck off vide order 02.09.2024.

62. Struck off vide order 02.09.2024.

63. Struck off vide order 02.09.2024.

64. Struck off vide order 02.09.2024.

65. Struck off vide order 02.09.2024.

66. Struck off vide order 02.09.2024.

67. Struck off vide order 02.09.2024.

68. Struck off vide order 02.09.2024.

69. Smt Silne T Sangma

R/o Megonggre Akhingland, West Garo Hills District, Meghalaya

70. Struck off vide order 02.09.2024.

71. Struck off vide order 02.09.2024.



72. Smt Lydia Ch Marak
R/o Sangsanggre Akhingland, West Garo Hills District, Meghalaya
 73. Struck off vide order 02.09.2024.
 74. Struck off vide order 02.09.2024.
 75. Smt Shipra Ch Sangma
R/o Sangsanggre Akhingland, West Garo Hills District, Meghalaya
 76. Dr. Angelice A. Sangma
R/o Dura/Chasingre Akhingland, West Garo Hills District,
Meghalaya
 77. Shri Rakseng A. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 78. Smt Enonish A. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 79. Shri Joshua N. Areng
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 80. Smt Soja Dazziel Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 81. Smt Rinarin Ch. Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 82. Smt Senolla B. Marak
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
 83. Shri Jondibar A. Sangma
R/o Dura/Chasingre Akhingland, West Garo Hills District,
Meghalaya
 84. Struck off vide order 02.09.2024.
-



85. Smt Podini A. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
86. Shri Ramrilberth M. Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
87. Shri Sudhir Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
88. Struck off vide order 02.09.2024.
89. Smt Persitha M Sangma
R/o Megonggre Akhingland, West Garo Hills District, Meghalaya
90. Struck off vide order 02.09.2024.

...WRIT PETITIONERS

VERSUS

1. State of Meghalaya represented by the Chief Secretary
Government of Meghalaya Shillong.
 2. Commissioner and Secretary to the Government of Meghalaya
Revenue and Disaster Management Department, Meghalaya,
Shillong.
 3. Joint Secretary to the Government of Meghalaya Revenue and
Disaster Management Department, Meghalaya Shillong.
 4. Commissioner and Secretary Government of Meghalaya, Public
Work Department (PWD) Meghalaya, Shillong.
 5. Executive Engineer P.W.D (Road) NH-cum Tura Central
Division, Tura, West Garo Hills District, Meghalaya.
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6. Commissioner and Secretary to the Government Meghalaya, Forest and Environment Department Meghalaya, Shillong.
7. Principal Chief Conservators of Forest and Environment Department, Government of Meghalaya, Meghalaya, Shillong.
8. Divisional Forest Officer, Forest and Environment Department, Government of Meghalaya, West and South -West Garo Hills District (Territorial) (Division) Tura, Meghalaya.
9. Commissioner and Secretary to the Government of Meghalaya, Agriculture Department , Meghalaya Shillong.
10. Commissioner and Secretary to the Government of Meghalaya, Horticulture Department , Meghalaya Shillong.
11. Commissioner and Secretary to the Government of Meghalaya, Fishery Department , Meghalaya, Shillong.
12. Collector, West Garo Hills District Tura, Meghalaya.
13. Extra- Assistant Commissioner (Revenue), West Garo Hills District Tura, Meghalaya.
14. Garo Hills Autonomous District Council represented by its Secretary (Revenue) Tura.
15. Union of India represented by its Secretary, Ministry of Road Transport and Highways, New Delhi.
16. National Highways and Infrastructure Development Corporation (NHIDCL) represented by General Manager, 3rd Floor, House no 206 Law College Road Dhankheti near Springfield School, Meghalaya, Shillong.
17. Meghalaya Institute of Governance (MIG), Lumpyngad Cottage, Bishop Cotton Road, Shillong-1.

....RESPONDENTS.



Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

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

For the Respondent(s) : Mr. S. Sen. GA. (R: 1 – 13)
Ms. N. Rajee, Adv. (R: 14)
Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv. (R: 15 & 16)
Mr. K. Ch. Gautam, Adv. (R: 17)

(JUDGMENT & ORDER)

By this writ petition, the petitioners have challenged the Notification No. RDA 103/2015/365 dated 27-06-2019, the various reports of hearing, and the Declaration vide No. RDA 103/2015/744 dated 08-06-2020 made under Section 11 (1), Section 15 and Section 19 (1) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the RFCTLARR Act, 2013) in connection with the acquisition of land measuring about 82B-3K-11L/110672.52 Sqm in Chibragre, Ganolgre, Duragre, Chasingre, Meggonggre, Sangsanggre, Darengre, Dopgre, Jenggitchakgre, Bolchugre, Darak A-kong, Chekwatgre, Ronggatagre, Gimbil A-Dinggre, Rongbibanggre, Daluagre, Romba Chisakgre, Rongbretgre, Wakkolnanggre, Danabollonggre, Bolmapara, Amongpara, Kherapara Nokat, Kherapara



Songma, Songmagre, Mandagre, Rengsipara, Rangdapara, Doldenggagre, Karonggre, Tibapara, and Magupara villages, West Garo Hills District, for widening of National Highway-51 from Goeragre to Chitoktak and Dobasipara to Dalu. The petitioners have also challenged the impugned minutes of meeting dated 03-10-2018 adopted by the respondent No.12 and impugned letters dated 04-02-2020 and 06-02-2020 issued by the respondent No.14 by which the respondent authorities excluded the portion of land known as 'Right of Way' (in short ROW) while taking measurement of land for assessment of amount of land compensation. Prayer has also been made for directing the Collector to conduct a fresh survey by including ROW and thereafter to acquire the land as per the fresh survey and to pay suitable compensation to the petitioners in accordance with the RFCTLARR Act, 2013.

1. The fact of the case as can be revealed from the writ petition is that the State-respondent vide letter No.RDA. 103/2015/172 dated 28-02-2017 had assigned the upon the respondent No.16 the task of conducting a Social Impact Assessment (SIA) study on the proposed acquisition of land for the purpose of widening NH-51 from Goeragre to Chitoktak and Dobasipara to Dalu in West Garo Hills District, Meghalaya under the provisions of the RFCTLARR Act, 2013. Accordingly, the respondent No.16 had prepared and submitted the SIA report and Social Impact Management Plan in the month of December, 2018. A recommendation for acquisition of land under Section 8 (2) of the RFCTLARR Act, 2013 was made on 17-06-2019 by the respondent No.3 for construction of two lane (with paved shoulder) of the section



Tura to Dalu (Km 85 to Km 95 & Km 101 to Km 145) after due consideration of all the reports. Subsequently, a preliminary notification was issued by the respondent No.3 under Section 11 (1) of the RFCTLARR Act, 2013 vide notification No.RDA. 103/2015/365 dated 27-06-2019. An objection against the land acquisition process was filed by some project affected people of Megonggre Aking Sector on 05-09-2019. Thereafter, a notice under Section 15 of the RFCTLARR Act, 2013 was issued vide Memo No. TVG.18/2015/537 dated 03-10-2019 by the Additional Deputy Commissioner (Revenue), West Garo Hills, Tura to all the concerned Nokmas and land owners inviting claims and objections pertaining to the said acquisition of land. After that, various reports of hearing were prepared by the respondent No.13. After submission of the reports, the Declaration under Section 19 (1) of the RFCTLARR Act, 2013 was made by the respondent No.3 vide Memo No. RDA.103/2015/744 dated 08-06-2014 declaring that the plot of land measuring more or less 82B-3K-11L/110672.52 Sqm is required to be taken by the Government for public purpose, namely, for widening NH-51. Being aggrieved by the non-consideration of their objection, the present writ petition has been filed by the petitioners challenging the acquisition proceeding.

2. The present writ petition was originally instituted by 90 (ninety) writ petitioners. However, during pendency of the writ petition, the names of the 44 (forty-four) writ petitioners were struck off from the array of parties by orders dated 16-04-2021, 14-03-2024 and 02-09-2024 passed in connected Misc. Applications on the ground that the said writ petitioners have already received the amount of land



compensation granted to them. The writ petition, thus, proceeded with remaining 46 (forty-six) writ petitioners for final hearing.

3. Mr. H. L. Shangreiso, learned Senior Counsel appearing for the petitioners submits that the decision of the respondent authority to proceed with the land acquisition proceeding is arbitrary and illegal, inasmuch as, the acquisition proceeding could not have proceeded without conducting any hearing and taking a decision on the objection of the writ petitioners as per the mandate of Section 15 of the RFCTLARR Act, 2013. The learned Senior Counsel argues that as per the provisions of Section 15 (2) of the RFCTLARR Act, 2013, it is mandatory for the collector to give an opportunity to the objector of being heard and thereafter to make a report to the appropriate Government containing his recommendation on the objection. He contends that it is not for the Collector either to accept or reject the objection and the only duty cast on him is to make recommendation in accordance with law. The learned Senior Counsel further submits that as per Section 15 (3) of the RFCTLARR Act, 2013, the appropriate Government shall take a decision on the objection, however, declaration under Section 19 (1) of the RFCTLARR Act, 2013 in the present matter was made without conducting any hearing and without taking any decision on the objection dated 15-09-2019 filed by the petitioners. He submits that the declaration under Section 19 (1) could not have been issued without following the provision of Section 15 and hence, the declaration dated 08-06-2020 made by the respondent No.3 is null and void. That apart, he submits that though the name of the petitioners were included in the notification dated 27-06-2019 issued



under Section 11 (1) of the RFCTLARR Act, 2013, no notice was served under Section 12 to the petitioners, which vitiates the land acquisition proceeding. The learned Senior Counsel further submits that the Collector has no authority to take a decision as to whether the portion of land known as ROW be included or excluded while computing the amount of land compensation and the decision to that effect taken by him by adopting the impugned minutes of meeting dated 03-10-2018 and on consideration of the impugned letters dated 04-02-2020 and 06-02-2020 is highly erroneous and cannot be sustained in law. He also submits that the order dated 07-08-2020 passed in MC No. 125 of 2020 and the order dated 16-12-2021 passed in MC No. 88 of 2021 by which the prayer of the petitioners for stay of the land acquisition proceeding was rejected and the project was allowed to continue, would no way negate the grounds taken by the petitioners in this writ petition as the orders passed at the interim stage would not sanctify foundational illegality committed by the Collector in the acquisition process. The learned Senior Counsel contends that the decision of the respondents authorities to proceed with the acquisition proceeding by ignoring the objection raised by the petitioners cannot be termed as valid in law, and hence, the declaration made under Section 19(1) is liable to be set aside and quashed *in persona* and the matter may be sent back to the Collector for proceeding from the stage of Section 15 of the RFCTLARR Act, 2013, afresh with liberty to the petitioners to appear before the Collector for an opportunity of being heard. In support of his argument the learned Senior Counsel has placed reliance on the following decisions of the Apex Court: -



- i) (2023) 6 SCC 512, *Haryana State Industrial and Infrastructure Development Corporation Limited and others versus Deepak Aggarwal and Others.*
- ii) (2017) 11 SCC 601, *Kedar Nath Yadav Versus State of West Bengal and Others.*
- iii) (2012) 2 SCC 25, *Kamal Trading Private Limited Versus State of West Bengal and Others.*
- iv) (2013) 4 SCC 210, *Usha Stud and Agricultural Firms Private Limited and Others Versus State of Haryana and Others.*
- v) (2016) 14 SCC 746, *State of Haryana and Another Versus Devander Sagar and Others.*
- vi) (2005) 7 SCC 627, *Hindustan Petroleum Corporation Limited Versus Darius Shapur Chenai and Others.*
- vii) (2011) 5 SCC 142, *Chairman-cum-Managing Director, Coal India Limited and Others Versus Ananta Saha and Ors.*
- viii) (2010) 9 SCC 437, *Kalabharati Advertising Versus Hemant Vimalnath Narichania and Others.*
- ix) (2004) 2 SCC 783, *Karnataka Rare Earth and Another Versus Senior Geologist, Department of Mines and Geology and Another.*
- x) (2011) 5 SCC 553, *Radhy Shyam (dead) through LRS and Others Versus State of U.P and Others.*
- xi) (1970) 3 SCC 768, *Chinta Lingam and Others Versus Government of India and Others.*
- xii) (2011) 12 SCC 695, *National Textile Corporation Limited Versus Nareshkumar Badrikumar Jagad and Others.*
- xiii) *Civil Appeal No. 6466 of 2024, Kolkata Municipal Corporation & Anr. Versus Bimal Kumar Shah & Ors.*



4. On the other hand, Mr. S. Sen, learned GA appearing for the State-respondents No.1 - 13 refutes the submission made on behalf of the petitioners and submits that at no point of time the petitioners have ever raised any objection to the acquisition proceeding in terms of Section 15 of the RFCTLARR Act, 2013. The learned GA, by referring to the objection dated 15-09-2019, submits that the petitioners' objection is confined to the measurement of land and the amount of compensation assessed by the State-respondents and not in relation to the area and suitability of land proposed to be acquired, justification offered for public purpose and the finding of the Social Impact Assessment Report and, hence, does not come under the purview of objection as defined by Section 15 (1) of the Act. He submits that all the concerned Nokmas and land owners were informed by notice dated 03-10-2019 with regard to hearing under Section 15 in connection with the claims and objections pertaining to the acquisition of land and various dates were fixed for hearing from 16-10-2019 to 28-10-2019 as per the schedule in the said notice. He further submits that consequent to the appearance of concerned Nokmas and land owners, several reports were prepared and forwarded to the appropriate Government and thereafter the declaration dated 08-06-2020 under Section 19 (1) of the RFCTLARR Act, 2013 was made by the respondent No.3. The entire acquisition proceeding was conducted strictly in accordance with the provision of law. The learned GA also contends that in view of stipulation made in the related land patta and rule 23 of the rules under the Assam Land and Revenue Regulation, 1886 as adopted by Garo Hills Autonomous District Council, the arrears identified as ROW



cannot be included in the measurement of land for assessment of amount of land compensation. He submits that since the petitioners' objection is limited to the question of adequacy of compensation and measurement of land, the same cannot be agitated in the present writ petition as they can raise their grievances by availing the remedy available under the related provision of the RFCTLARR Act, 2013. He further submits that all the writ petitioners are not similarly situated as only 18 out of the remaining 46 writ petitioners have signed the objection dated 15-09-2019 and, the writ petition as such cannot be entertained for not having common cause of action.

5. Dr. N. Mozika, learned DSGI appearing for the respondents No.15 and 16 endorses the submission made on behalf of the State-respondents and further submits that the names of all the writ petitioners are included in the list of beneficiaries who were awarded compensation on account of the land acquisition, while some of them have received the amount of compensation, the present petitioners did not agree with the amount of compensation and being dissatisfied, have refused to co-operate with the work of the ongoing project which in turn has affected the public interest involved in the matter. He submits that if, at all, the writ petitioners are not ready to accept that award for the reason of inadequacy of rate of compensation and dispute with regard to the measurement of land, they cannot seek redressal of their grievance by filing the present writ petition as the Writ Court is not the proper Court for settling such disputes.



6. Ms. N. Rajee, learned Counsel appearing for the respondent No.14 and Mr. K. Ch. Gautam, learned Counsel appearing for the respondent No.17 adopted the submissions made on behalf of the respondents No. 1 – 13 and the respondents No.15 & 16.

7. In reply, the learned Senior Counsel for the petitioner submits that the respondent-Collector in his counter-affidavit did not deny that the objection dated 05-09-2019 was not an objection under Section 15(1) of the RFCTLARR Act, 2013 and, as such, the submissions advanced by the learned GA and the learned DSGI have no foundation in the pleading made by the Collector. Thus, submissions being contrary to the pleadings are not worthy of acceptance by this Court.

8. The submissions made by the learned Counsels for the parties are taken note of and given a thoughtful consideration.

9. As the entire writ petition is centered around the objection dated 15-09-2019 claimed to have been filed by the petitioners against the acquisition proceedings, it is imperative to take into consideration the contents of the said objection. Perusal of the said objection reveals that the objection was filed by 66 project affected people of Megonggre A'king Sector. There is no averment in the writ petition as to how many of the petitioners are signatories to the said objection. Furthermore, the nature of objection raised therein is only with regard to the measurement of land and the amount of compensation. There is no mention of any opposition to the area and suitability of the land proposed to be acquired, justification offered for public purpose or to



the finding of the SIA report. In fact, the concluding part of the objection dated 15-09-2019 reads as follows: -

“7. In the light of the above stated facts and circumstances we the domiciles fervently request you honour to kindly look into or genuine grievances and arrange to pay a fair and reasonable compensation without any discrimination to each and every one of us and in the most transparent way, for which act of kindness we shall ever be thankful and remember you. Similarly, we also pray and request that we may not be dragged to the court for seeking a legal justice.”

Thus, from the above, it is apparent that the objection raised therein has no nexus with the provisions of law contained in Section 15 (1) of the RFCTLARR Act, 2013 and no request was made therein to cancel or abandon the land acquisition proceeding.

10. The case record reveals that MC No. 125 of 2020 was filed along with this writ petition with a prayer for staying the land acquisition proceeding and the ongoing project during the pendency of the writ petition. This Court vide order dated 07-08-2020 rejected the prayer and directed the respondents or the agency engaged in the project to maintain records as to the specific areas from where the number and size of tree have been felled and removed and also keep records of the location of the pucca structures which have been demolished in the course of the widening of the highway. The order of rejection of stay has not been challenged by the writ petitioners before any forum.

11. The case record further reveals that during the pendency of the writ petition, another Misc. Application being MC No.88 of 2021 was preferred by the National Highway and Infrastructure Development



(NHIDC) Ltd. for ensuring availability of the working front in the defined area of the project so as to enable the Corporation to complete the road project which is in the interest of public on time. This Court by order dated 16-12-2021, taking note of the earlier order dated 07-08-2020, directed the writ petitioners to abide by the order of this Court and not cause disturbances and allow the project to continue as the same is in public interest. It was further observed therein that since the process of compensation was not complete, the petitioners be given a chance to be heard and present their case as and when they are called upon by the District Collector. The petitioners also did not challenge the said order dated 16-12-2021.

12. The aforesaid orders dated 07-08-2020 and 16-12-2021 make it amply clear that this Court explicitly declined to stay the land acquisition proceeding and the ongoing public project. Since, there was no further challenge to the aforesaid orders, the question which now remains for adjudication is only with regard to the claims of the writ petitioners concerning the adequacy of compensation and measurement of land. Even the prayer made in the writ petition by the petitioners would show that the grievance of the petitioners is specifically in relation to the quantum of compensation and measurement of land. The relevant parts of the prayer made in the writ petition are as follows: -

“(i) directing the respondents especially respondent Collector to Conduct fresh survey and take measurement of the land including 8.295 more or less meters width in stretches situated from the edge/end of the exiting 4.75 width meters of NH-51, West Garo Hills District, Meghalaya including trees, crops attached thereon in the presence of the writ petitioners as well as



providing adequate opportunity of being heard under the provisions of “The Right to Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013”,

ii) directing the respondent state to appoint the Administrator as require under section 43 of the “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” to conduct survey and prepare the Rehabilitation and Resettlement scheme for the writ petitioners whoever duly entitled,

iii) directing the respondents thereafter, to acquire their land as per the result of the fresh survey and total measurement of land as prayed in (i) above and pay the suitable compensation to the writ petitioners for acquiring their land including the trees, crops etc attached there to in accordance with the provisions of “The Right to Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013” and pass such other order/orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

And for this act of kindness, the petitioner as in duty bound shall ever pray.

13. The declaration dated 08-06-2020 made by the respondent No.3 under Section 19 (1) of the RFCTLARR Act, 2013 specifically mentioned that the number of families likely to be resettled due to land acquisition is ‘Nil’. The learned Senior Counsel for the petitioners has not made any argument on the question of displacement of person due to acquisition of land and no issue was raised with regard to rehabilitation and resettlement of any person and appointment of Administrator in terms of Section 43 of the RFCTLARR Act, 2013. Hence, it is construed that the petitioners have no grievance with regard to the rehabilitation and resettlement in the matter.



14. Any objection to the measurement of land for the reason of non-inclusion of part of land identified as ROW by terming it as a part and parcel of private land, is essentially an objection falling under the purview of Section 64 of the RFCTLARR Act, 2013. If petitioners have any claim of ownership or interest over ROW, they are free to raise it before the appropriate authority in accordance with law. The claim of right and interest over a plot of land, inclusion or exclusion of any part thereof for proper measurement of land, and payment of adequate compensation thereof in a land acquisition proceeding cannot be considered in writ jurisdiction as any person aggrieved by measurement of land and inadequacy of compensation has the remedy to seek reference by filing written application as provided in Section 64 of the RFCTLARR Act, 2013.

15. Since, it is clear that the objection dated 15-09-2019 is not an objection seeking cancellation or abandonment of the land acquisition proceeding on the grounds mentioned in Section 15 (1) of the RFCTLARR Act, 2013, detailed discussions on the case laws relied on by the learned Senior Counsel for the petitioner is found not necessary as all those decisions relate to the issues concerning Section 15 of the RFCTLARR Act, 2013. In fact, except for raising the grievance of non-inclusion of ROW in the measurement of land, the petitioners have not raised any other ground for objection against the land acquisition proceeding.

16. The contention of the petitioners that the collector has no authority to exclude ROW from the measurement of land on the basis



of impugned resolution dated 03-10-2018, impugned letters dated 04-02-2020 and 06-02-2020 also do not merit much attention at this stage as such decisions of the Collector has no bearing in the exercise of statutory right of the petitioners in terms of Section 64 of the RFCTLARR Act, 2013. In case, the petitioners do not accept the award for the reason of non-inclusion of ROW in the measurement of their lands, they can take recourse of Section 64, and in such a situation, the Collector's decision in that regard cannot be treated as final and would be subject to the decision made in accordance with law.

17. For the reasons and discussions made above, the petitioners have failed to make out a case for any interference with the land acquisition proceedings in this matter. However, it would be open for the petitioners to raise their grievances with regard to the measurement of land and inadequacy of compensation in terms of provisions of law contained in the RFCTLARR Act, 2013 by filing a written application requiring reference of the matter under Section 64 of the said Act. In the event, the petitioners prefer to file any written application raising such grievance, the respondent No.12 shall deal with in accordance with law in the light of the observation made hereinabove.

18. The writ petition stands disposed of in the aforesaid terms.

19. The interim orders passed in MC[WP(C)] No. 136 of 2024 and MC[WP(C)] No. 139 of 2024 stand vacated.



20. There will be no order as to costs.

Judge

Meghalaya
04.10.2024
“Biswarup PS”

