

GAHC040015692022

2024:GAU-AP:1029



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

1. WA 41(AP)2022

- 1:** THE UNION OF INDIA through the Director General, ITBP, MHA, Govt. of India, Block 2, CGO Complex, Lodhi Road, New Delhi.
- 2:** The Inspector General, North East Frontier HQ, ITBP, MHA. Govt. of India, Khating Hill, Itanagar, Arunachal Pradesh, PIN 791111.
- 3:** The DIG SHQ Dibrugarh, ITBP, MHA, Govt. of India, Mohanbari, District Dibrugarh, Assam, PIN 786012.
- 4:** The Commandant, 9th ITBP, Lohitpur, PO Tezu. District Lohit, Arunachal Pradesh, PIN 792001.

..... Appellants/Petitioners

Versus-

- 1:** THE STATE OF AP through the Chief Secretary, Govt. of Arunachal Pradesh, Civil Secretariat, Arunachal Pradesh, Itanagar.
- 2:** The Secretary, Land Management, Arunachal, Itanagar, Govt. of Pradesh.
- 3:** The Deputy Commissioner/Land Acquisition Authority, Dibang Valley District, PO and PS Anini, Arunachal Pradesh.
- 4:** Ngasi Mena, Son of Lt. Tibu Mena, Permanent Resident of Maliney, Etalin circle PO/PS Anini, Dibang Valley District, Arunachal Pradesh.
- 5:** Ganga Mili, S/o Lt. A. Milli, Permanent Resident of Acheso(Dembuen), PO/PS Anini, Dibang Valley District, Arunachal Pradesh.
- 6:** Sipa Melo, S/o Lt. Angra Melo, Permanent Resident of Village Aliney, PO/PS Anini, Dibang Valley District, Arunachal Pradesh.
- 7:** Akuli Mipi, S/o Late Mana Mipi, Permanent Resident of Village Mipi, PO and PS Anini.
- 8:** Katu Mipi, S/o Late Mana Mipi, Permanent Resident of Village Mipi, PO and PS Anini, Dibang Valley District, Arunachal Pradesh.
- 9:** Laso Mipi S/o Late Mana Mipi, Permanent Resident of Village Mipi, PO and PS Anini, Dibang Valley District, Arunachal Pradesh.
- 10:** Rusiya Melo, Permanent Resident of Village Mipi, PO and PS Anini, Dibang Valley District, Arunachal Pradesh.

..... *Respondents*

By Advocates:

For the appellants: Mr. M. Kato, DSGI

For the respondents: Mr. S. Tapin, Sr. Govt. Advocate

Mr. D. Kamduk, SC, Land Management

Mr. Rituraj Biswas

Mr. Sunil Mow

Mr. M. Mili

Ms. C. Bangsia

Ms. K. N. Maling

Mr. R. Ingo

Mr. R. Saikia

Mr. L. Nochi

Mr. L. Bam

Mr. B. Taipodia

Mr. I. Bam

2. WA 42(AP)2022

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:::BEFORE::
HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 30.05.2024
Date of Judgment & order: 21.11.2024

JUDGMENT & ORDER (CAV)

(N. Unni Krishnan Nair, J.)

Heard Mr. Marto Kato, learned DCSI, appearing on behalf of the appellants. Also heard Mr. Subu Tapin, learned Senior Government Advocate, Arunachal Pradesh, appearing on behalf of respondents No. 1 & 3; and Mr. Dugmar Kamduk, learned standing counsel, Land Management Department, Arunachal Pradesh, appearing on behalf of respondent No. 2; in both these writ appeals; as well as Mr. Rituraj Biswas, learned counsel, along with Mr. Sunil Mow, learned counsel, appearing for respondents No. 4, 5 & 6, in WA No.41(AP)2022; and for respondents No. 8, 9 & 10, in WA No.42(AP)2022; as well as Mr. Rintu Saikia, learned counsel, appearing on behalf of respondents No. 7, 8, 9 & 10; in WA No.41(AP)2022, and for respondents No. 4, 5, 6 & 7, in WA No. 42(AP)2022.

2. The present intra-Court appeals have been instituted by the appellants, raising a grievance against the order, dated 08.09.2022, passed by the learned Single Judge in IA(C)117(AP)2022[in WP(C)211(AP)2022] along with WP(C)190(AP)2022 and WP(C)211(AP)2022.

3. The issue arising in the present appeals was a subject-matter of

earlier proceedings instituted before this Court by and between the parties and the issue involved, had received a consideration and as noticed in the impugned order of the learned Single Judge, referred to above, has attained its finality. Accordingly, the litigational history would be required to be noted before the examining the order, dated 08.09.2022, impugned in the present proceeding.

4. The private respondents in the appeal, had instituted proceedings before this Court, assailing the allotment of their lands, to the Indo Tibetan Border Police(ITBP) in various areas falling under Dibang Valley District. The plots of land was initially occupied by the Assam Rifles and in the year 2005, the said plots of land were handed over to the Indo Tibetan Border Police(ITBP). The writ petitions so instituted by the private respondents, herein, were WP(C)11(AP)2017; WP(C)74(AP) 2017; WP(C)77(AP)2017; WP(C)78(AP)2017 and WP(C)79(AP) 2017.

5. The learned Single Judge on consideration of the issues involved; disposed of the aforesaid writ petitions vide separate orders, all, dated 18.01.2017, directing the jurisdictional Deputy Commissioner, to cause an inquiry into the matter as to whether the land occupied by the Indo Tibetan Border Police(ITBP), were community land or government land. After the passing of the said order, dated 18.01.2017, and the processing as mandated for the purpose; the Secretary, Land Management Department, Government of Arunachal Pradesh, issued a Notification, dated 24.04.2018, for acquisition of the lands, under the provisions of Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; for setting-up of

Indo Tibetan Border Police(ITBP) Border Outpost at Anini, Dembeun, Mipi and Maliney villages under Dibang Valley District.

6. On conclusion of the proceeding mandated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in pursuance of the issuance of the Notification, dated 24.04.2018, under Section 11 of the said Act of 2013; the jurisdictional Deputy Commissioner, proceeded to issue a Land Acquisition Award under Section 23 of the said Act of 2013, vide Notification, dated 06.09.2018. The award so issued had attained its finality in terms of the provisions of Section 37 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. The Land Acquisition Award although being issued, the consequential payments not being released; the private respondents, herein, approached the writ Court by way of instituting WP(C)281(AP)2019 and WP(C)274(AP)2019, *inter alia*, praying for release of the awarded amount, by contending that the Land Acquisition Award as passed by the jurisdictional Deputy Commissioner, vide communication, dated 06.09.2018, on not being challenged by the appellants, herein, the same had attained its finality. The learned Single Judge on consideration of the matter in the above-noted writ petitions; vide judgment & order, dated 07.11.2019, was pleased to dispose of the above-noted two writ petitions.

8. The observations recorded by the learned Single Judge vide order, dated 07.11.2019, in WP(C)281(AP)2019 and WP(C)274(AP)2019, along with the directions passed, being relevant, is extracted hereinbelow:

“.....5. At this stage, it is submitted by the learned counsels for the petitioners that the land in question has been initially under the possession of the Assam Rifles and thereafter, the ITBP since more than 5(five) decades and it was in the year 2005 that the possession has been handed over to the ITBP, a fact which has not been disputed by the learned counsel for the respondents, Shri M. Kato.

10. Shri M. Kato, learned CGC, on the other hand submits that there are certain lacunae in preparing the Award. By referring to the affidavit-in-opposition dated 02.11.2019, the learned counsel has submitted that the rate itself was disputed for which the Deputy Commissioner was approached. He further submits that the ownership of the land was itself in doubt as to whether it was Community land or Government Land and therefore, there is no necessity to pay the Awarded amount unless factual aspects are clarified.

14. The Act in question lays down the provision of making the Award under Section 23 of the Act by the Collector. The said provision lays down the factors which are to be taken into consideration. This Court has also noticed that under Section 37, such Award is final in nature. Though in exceptional circumstance a writ petition may be maintainable against such an Award, the same has to be restricted only on grounds of fraud in making the Award and not as a routine manner, more so when there is provision for reference under Section 64 of the Act.

15. In the instant case, in view of the fact that no efforts have been made to challenge the legality and validity of the Award and no steps been taken to make reference by the Collector, it would not be within the ambit and scope of the learned CGC to point out lacunae in the Award. It is an established principle of law that when a statute recognises a particular mode to do a particular thing, that thing must be done in the prescribed manner only and not by any other modes.

17. In view of the aforesaid facts and circumstances and the decisions made, this Court is of the opinion that a case for interference is made out by the petitioners by this Court in exercise of powers under Article 226 of the Constitution of India.

18. Accordingly, the writ petitions are allowed, directing the respondent authorities to immediately deposit the Awarded amount in the Office of the Deputy Commissioner, Anini, Dibang Valley and in any case, within an outer limit of 3(three) months from today. On such deposit, the Deputy Commissioner would take all necessary steps to release the same to the petitioners in accordance with law and after proper identification.”

9. A perusal of the judgment & order, dated 07.11.2019, passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019; would go to reveal that the contentions of the appellants, herein, that they had disputed the rate as fixed by the jurisdictional Deputy Commissioner for the lands involved in the Land Acquisition Award, notified on 06.09.2018, and further that the ownership of the land itself being in doubt i.e. as to whether the same was community land or government land; there was no necessity to pay the awarded amount unless factual aspects are clarified, was duly noticed.

10. The learned Single Judge on appreciating the said contentions raised by the appellants, herein, in the judgment & order, dated 07.11.2019, passed in WP(C)281(AP)2019 and WP(C)274(AP)2019, had concluded that although in exceptional circumstances, a writ petition may be maintainable against an award made under the provisions of Section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, however, the same has to be restricted only on the ground of fraud in making the award and not in a routine manner, moreso, when there is a provision for reference under Section 64 of the said Act of 2013.

11. Basing on the said conclusions, the learned Single Judge vide judgment & order, dated 07.11.2019, passed in WP(C)281(AP)2019 and WP(C)274(AP)2019, proceeded to direct the appellants, herein, to immediately deposit the awarded amount in the Office of the Deputy Commissioner, Anini, within the time-frame so stipulated. It was further provided that the claim for interest being referable to Section 80 of the

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; was permitted to be made before the jurisdictional Deputy Commissioner, at the time of the release of the awarded amount, which was also directed to be considered as a statutory right.

12. The appellants, herein, being aggrieved by the judgment & order, dated 07.11.2019, passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019; instituted WA No. 196/2021, assailing the said judgment & order, dated 07.11.2019, insofar as it concerns WP(C)274(AP)2019. The said writ appeal was taken-up for final consideration by a Division Bench of this Court and vide order, dated 07.10.2021; the same came to be dismissed as withdrawn, granting liberty to the present appellants to pursue their remedy in accordance with the provisions stipulated in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

13. It is to be noted that in the said order, dated 17.10.2021, passed in WA No. 196/2021; the Division Bench of this Court had recorded the submissions of the learned counsel for the appellants that he be allowed to withdraw the said writ appeal so that he may pursue the matter, either, by filing a reference under Section 64, or, preferring an appeal under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

14. Pursuant to the dismissal of the said WA No. 196/2021; the

appellants, herein, had instituted a Land Acquisition Appeal being L.A. Appl. No. 02/2021, under the provisions of Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, assailing the impugned Land Acquisition Award, dated 06.09.2018. The said L.A. Appl. No. 02/2021 received consideration by a learned Single Judge of this Court and vide order, dated 10.12.2021; the said appeal came to be dismissed on the ground that the said appeal under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, was not so instituted against an award passed under Section 69 of the said Act of 2013.

15. The L.A. Appl. No. 02/2021 instituted under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, had assailed the Land Acquisition Award, dated 06.09.2018, passed under Section 23 *read with* Section 37 of the said Act of 2013. Section 74 of the said Act of 2013, provides for an appeal to be instituted before the jurisdictional High Court against an award passed by an "Authority" under Section 69 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within the time frame so prescribed therein. Section 3(f) of the Act of 2013, defines the term "Authority", to mean the "Land Acquisition, Rehabilitation and Resettlement Authority", established under the provisions of Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The appeal permissible to be preferred under Section 74 of the Act of 2013, is the determination of the

award by the "Authority" under Section 69 and not the award passed by the Collector under Section 23 *read with* Section 37 of the Act of 2013.

16. It is to be noted that admittedly, the appellants, herein, have not taken recourse to the provisions of Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, permitting reference to the "Authority". Accordingly, the award under challenge in the proceedings of L.A. Appl. No. 02/2021, being not an award emanating from an award passed by the Authority under Section 69 of the said Act of 2013; the learned Single Judge had rightly dismissed the said L.A. Appl. No. 02/2021. Accordingly, the Land Acquisition Award, passed vide the Notification, dated 06.09.2018, remained unchallenged.

17. After dismissal of the aforesaid appeal preferred by the appellants, herein, vide order, dated 10.12.2021; the appellants again instituted a writ appeal being WA No. 195/2022, challenging the judgment & order, dated 07.11.2019, passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019, in connection with WP(C)281(AP)2019.

18. The Division Bench of this Court while dismissing the aforesaid writ appeal being WA No. 195/2022, vide order, dated 06.06.2022, was pleased to hold that the validity of the award not being put to challenge by the appellants, herein; no reason to interfere with the directions passed by the learned Single Judge vide judgment & order, dated 07.11.2019, in WP(C)281(AP)2019 and WP(C)274(AP)2019, was called

for.

19. The directions passed by the learned Single Judge vide judgment & order, dated 07.11.2019, in WP(C)281(AP)2019 and WP(C)274(AP)2019, not being complied with by the appellants, herein; the private respondents, herein, instituted a contempt proceeding being Cont. Case(C)04/2020 before this Court, alleging willful and deliberate violation of the directions passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019, vide judgment & order, dated 07.11.2019. The learned counsel for the appellants appearing in the said contempt case, submitted that the awarded amount would be deposited and prayed for grant of 3(three) months time for depositing the assessed amount. Accordingly, the learned Single Judge vide order, dated 16.06.2022, passed in the said Cont. Case(C)04/2020; was pleased to grant 45 days time to the appellants, herein, for compliance of the directions passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019, vide judgment & order, dated 07.11.2019.

20. During the pendency of the said Cont. Case(C)04/2020, the appellants, herein, instituted WP(C)190/2022, again presenting a challenge to the Notification, dated 24.04.2018, as well as the Land Acquisition Award, dated 06.09.2018. The said writ petition along with Cont. Case(C)04/2020 was again considered by the learned Single Judge and vide order, dated 08.06.2022, noticing the litigation background involved as well as the undertaking given by the learned counsel for the appellants, herein; permitted further time to the appellants, herein, for compliance of the directions passed by the learned Single Judge in

WP(C)281(AP)2019 and WP(C)274(AP)2019, vide judgment & order, dated 07.11.2019.

21. Thereafter, the appellants, herein, instituted WP(C)211/2022, again assailing the said Notification, dated 24.04.2018, as well as the Land Acquisition Award, dated 06.09.2018. The learned Single Judge on noticing that the private respondents, herein, have raised an objection with regard to the maintainability of the said writ petition; was pleased vide order, dated 15.06.2022, to direct for listing of the matter on 12.07.2022.

22. Being aggrieved, the appellants, herein, approached the Hon'ble Supreme Court by way of filing a Special Leave to Appeal(C) No(s). 13236-13237/2022, assailing the order, dated 15.06.2022, passed by the learned Single Judge in WP(C)211/2022, to the extent of refusal to pass an interim direction in the matter along with the order, dated 16.06.2022, passed by the learned Single Judge in Cont. Case(C)04/2020.

23. The Hon'ble Supreme Court in the said Special Leave to Appeal(C) No(s). 13236-13237/2022, was pleased vide order, dated 05.08.2022, while issuing notice, to stay the contempt proceedings pending before the Court of learned Single Judge in Cont. Case(C)04/2020, on the condition that the appellants would deposit the amount involved, before the jurisdictional Deputy Commissioner within a period of 6(six) weeks. However, it was provided that disbursement of the said amount would be subject to the further orders passed by the Hon'ble Supreme Court in the

said Special Leave to Appeal(C) No(s). 13236-13237/2022.

24. It is to be noted that in terms of the directions passed by the Hon'ble Supreme Court in the said Special Leave to Appeal(C) No(s). 13236-13237/2022; the appellants, herein, deposited the awarded amount before the jurisdictional Deputy Commissioner. Accordingly, the Hon'ble Supreme Court, in view of the deposit of the awarded amount being made, was pleased to dispose of the said Special Leave to Appeal(C) No(s). 13236-13237/2022, vide order, dated 20.01.2023.

25. The awarded amount being so deposited with the jurisdictional Deputy Commissioner; the learned Single Judge vide order, dated 24.02.2023, was pleased to close the Cont. Case(C)04/2020.

26. At this stage, it is to be noted that the private respondents in WP(C)211/2022, had instituted an interlocutory application before this Court being IA(C)117/2022, questioning the maintainability of the writ petition being WP(C)211/2022, in view of pendency of WP(C)190(AP)2022, on the same issue. The learned Single Judge accordingly proceeded to take-up the said IA(C)117(AP)2022 for final consideration.

27. Upon considering the issues arising in the matter; the learned Single Judge was pleased vide order, dated 08.09.2022, to allow the said interlocutory application being IA(C)117(AP)2022, and dismissed the writ petitions being WP(C)190/2022 and WP(C)211/2022.

28. Being aggrieved by the said order, 08.09.2022, passed in the said interlocutory application being IA(C)117(AP)2022; the appellants, herein, have instituted the present proceedings before this Court.

29. We have heard the learned counsels appearing for the parties and also perused the materials available on record.

30. The learned counsels for the parties have reiterated the facts as noticed hereinabove.

31. The litigational history involved in the present proceedings and as noticed hereinabove, is not disputed by the learned counsels appearing for the parties.

32. The above being the position, the submissions advanced by the learned counsels for the parties to the proceedings, being a reiteration of the litigational history and the directions passed by this Court in the matter pertaining to the Land Acquisition Award, dated 06.09.2018; the same is not reflected in the present order.

33. The materials available on record would go to reveal that the lands of the private respondents in the present proceedings, were admittedly acquired for the appellants, herein, by the State Respondents. In this connection, initially, a Notification under Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, was so issued on dated 24.04.2018. Thereafter,

on the procedures mandated to be so followed, having been so undertaken; the jurisdictional Deputy Commissioner passed a Land Acquisition Award, dated 06.09.2018, in connection with the plots of the land of the private respondents, herein.

34. As noticed hereinabove, the private respondents, herein, being aggrieved by the action/inaction on the part of the respondent authorities in not releasing to them, the awarded amount in terms of the said Land Acquisition Award, dated 06.09.2018; had instituted WP(C)281(AP)2019 and WP(C)274 (AP)2019, praying for appropriate direction for release of the said awarded amount to them.

35. The said writ petitions being WP(C)281(AP)2019 and WP(C)274(AP)2019, were disposed of by the learned Single Judge vide judgment & order, dated 07.11.2019. In the said judgment & order, dated 07.11.2019, the objections of the present appellants were noticed and it was recorded that the objections pertain to the rate fixed by the jurisdictional Deputy Commissioner for the purpose of computation of the value of the lands involved in the Land Acquisition Award, dated 06.09.2018. A further objection on the part of the appellants, herein, that the awarded amount would not be called to be released on the ground that the ownership of the land was in doubt and it was not ascertained as to whether the land was community land and/or government land, was also noticed. It is seen that the learned Single Judge had considered the said objections and noticing that no challenge to the Land Acquisition Award, dated 06.09.2018, were presented by the appellants, herein, in the manner as contemplated under the provisions

of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; proceeded to reject such contentions.

36. Accordingly, the learned Single Judge vide judgment & order, dated 07.11.2019, passed in WP(C)281(AP)2019 and WP(C)274(AP)2019, had directed the appellants, herein, to deposit the awarded amount with the jurisdictional Deputy Commissioner and for release of the same to the private respondents, herein. The said judgment & order, dated 07.11.2019, was assailed in an intra-Court appeal initially by way of instituting WA No. 196/2021, which was dismissed by the Division Bench of this Court on withdrawal vide order, dated 07.10.2021, allowing the appellants, herein, to pursue the matter, either, by way of filing a reference under Section 69, or, by preferring an appeal under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

37. Thereafter, the appellants, herein, have instituted the L.A. Appl. No. 02/2021 before this Court. However, the same, as noticed hereinabove, was dismissed by this Court vide order, dated 10.12.2021, on the ground that the same was not so instituted assailing an award passed under Section 69 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

38. As held by the learned Single Judge in the order, dated 10.12.2021, passed in L.A. Appl. No. 02/2021; an appeal under Section 74, would be maintainable against an award passed by the "Authority" under Section

69 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

39. It is an admitted position that the appellants, herein, have not taken recourse of the proceedings under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, presenting a challenge to the Land Acquisition Award, dated 06.09.2018.

40. A further appeal being WA No.195/2022, was instituted by the present appellants, presenting a challenge to the judgment & order, dated 07.11.2019, passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019. However, a Division Bench of this Court vide order, dated 06.06.2022, noticing that the Land Acquisition Award, dated 06.09.2018, was not put to challenge by the appellants, herein; the said writ appeal was closed holding that there was no reason to interfere with the directions passed by the learned Single Judge vide judgment & order, dated 07.11.2019, in WP(C)281(AP)2019 and WP(C)274(AP)2019.

41. The orders passed by this Court vide order, dated 07.10.2021, in WA No. 196/2021, and order, dated 06.06.2022, in WA No. 195/2022 not being assailed; had resulted in finality to the directions passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019, vide judgment & order, dated 07.11.2019.

42. The appellants, herein, have also not instituted any proceeding under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, although liberty was sought for by them in the matter while withdrawing WA No. 196/2021, and also submitted in WA No. 195/2022, to the effect that the appellants, herein, are proposing to approach the competent forum to challenge the legality and validity of the Land Acquisition Award, dated 06.09.2018.

43. For ready reference, Section 37 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, being relevant to the issues arising in the present proceedings, is extracted hereinbelow:

“37. Awards of Collector when to be final.--

(1) The Awards shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his awards to such of the persons interested who are not present personally or through their representatives when the awards are made.

(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act on the website created for this purpose.”

44. A perusal of the provisions of Section 37(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, reveals that the award passed by the Collector under Section 23 of the said Act of 2013, would be final and conclusive evidence as between the Collector and the persons interested. It further

provides that whether or not, the persons interested have respectively appeared before the Collector, or not, the award shall be conclusive of the true area and the market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation amongst the persons concerned.

45. The appellants, herein, by way of their conduct, as demonstrated from the proceedings in the matter both before the writ Court as well as before the Division Bench of this Court; has permitted the Land Acquisition Award, dated 06.09.2018, to have attained its finality. The appellants, herein, having not questioned the awarded amount in the manner provided for in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and the learned Single Judge, vide judgment & order, dated 07.11.2019, passed in WP(C)281(AP)2019 and WP(C)274(AP)2019, having directed the appellants, herein, to deposit the awarded amount with the jurisdictional Deputy Commissioner and such direction being passed after considering the objections raised in the matter by the appellants, herein, and the rejection, thereof; the appellants by way of reiterating the same very objections, could not have instituted the connected writ petitions being WP(C)190/2022 and WP(C)211/2022, basing on the same grounds as was raised by it in the earlier round of litigations involved in the proceedings of WP(C)281(AP)2019 and WP(C)274(AP)2019.

46. The conduct of the appellants, herein, in the light of the various orders passed by this Court in the connected proceedings, would reveal that the appellants are only by trying to institute proceedings one after

the other, seeking to delay the disbursement of the awarded amount involved in the Land Acquisition Award, dated 06.09.2018, and thereby causing prejudice to the private respondents, herein.

47. The learned Single Judge while considering IA(C)117(AP)2022, had taken note of all the relevant facts involved including the litigational history involved and thereafter, by concluding that the writ petitions to be not maintainable; proceeded to also hold that the writ petition being WP(C)211/2022 was clearly barred by the principles of *res-subjudice* as the same was filed with the same prayers as in WP(C)190/2022. The learned Single Judge further relying on the decision rendered by the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh v. Bhailal Bhai & ors.***, reported in ***AIR 1964 SC 1006***, had proceeded to hold that both the writ petitions were not maintainable and accordingly, while allowing the IA(C)117(AP)2022 filed by the private respondents, herein, questioning the maintainability of WP(C)190/2022 and WP(C)211/2022; proceeded to dismiss the said writ petitions being WP(C)190/2022 and WP(C)211/2022, as not maintainable.

48. It is a settled position of law that the law on *res judicata* and *estoppel* is well settled in India and there are ample authoritative pronouncements on the subjects. The plea of *res judicata* though technical is based on public policy in order to put an end to litigation. It is, however, different if an issue which has been decided in an earlier litigation again arises for determination between the same parties in a suit or other proceeding based on a fresh cause of action or where there is a continuous cause of action. The parties then may not be bound by

the determination made earlier if in the meanwhile, law has changed or has been interpreted differently by a higher forum. A judicial decision is deemed final when it leaves nothing to be judicially determined or accepted thereafter, in order to render it effective and capable of execution and is absolute, complete and certain as and when, it is not lawfully subject to subsequent recession, review or modification by the Tribunal which pronounced it. The principle of *res judicata* envisages that a judgment of a Court of concurrent jurisdiction directly upon a point, would either create a bar as regards the plea, between the same parties in some other matter in another Court, where the said plea raises to raise the same very point that was determined in an earlier judgment.

49. In the present proceedings, the writ Court having noticed that the Land Acquisition Award, dated 06.09.2018, was not challenged by the appellants, herein; had proceeded vide judgment & order, dated 07.11.2019, passed in WP(C)281(AP)2019 and WP(C)274(AP)2019, to direct the appellants, herein, to deposit the awarded amount with the jurisdictional Deputy Commissioner and the appellants, herein, inspite of having withdrawn the appeal so preferred in the matter in pursuance of the said judgment & order, dated 07.11.2019, on the plea of approaching the competent forum provided under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, to challenge the Land Acquisition Award, dated 06.09.2018, admittedly, having not taken recourse to any such course of action, the judgment & order, dated 07.11.2019, passed by the learned Single Judge in WP(C)281(AP)2019 and WP(C)274(AP)2019, having been upheld by the Division Bench of this Court in the intra-Court appeals so

preferred by the appellants against it, has to be held to have by and between the parties, involved, attained its finality.

50. Accordingly, the issue arising in the said writ petitions being WP(C)190/2022 and WP(C)211/2022, being a reiteration of the issues so raised by the appellants, herein, in the proceedings of WP(C)281(AP)2019 and WP(C)274(AP) 2019, the same would be hit by the principle of *res judicata* and there being no mitigating circumstances brought on record, either, before the learned Single Judge, and/or, before this Court in the present appeals; we are of the considered view that the instant appeals would not mandate a consideration on merits and would be called to be dismissed on the ground of not being maintainable in view of the litigational history, noticed hereinabove.

51. In view of the above discussions; we are of the considered view that the order, dated 08.09.2022, passed by the learned Single Judge in IA(C)117(AP)2022[in WP(C)211(AP)2022] along with WP(C)190(AP)2022 and WP(C)211(AP)2022, is not erroneous and would not call for any interference.

52. Noticing that the appellants, herein, had instituted connected writ petitions and writ appeals before this Court without having taken recourse to the procedures as mandated under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for challenging the Land Acquisition Award, dated 06.09.2018, and it being apparent that the appellants, herein, have, by instituting proceedings one after the other

before this Court, only sought to delay the inevitable i.e. release of the awarded amount to the private respondents, herein; we are of the further considered view that the conduct of the appellants, herein, cannot be condoned and accordingly, a cost of Rs. 25,000/- is imposed upon the appellants, herein, in the matter.

53. The cost of Rs. 25,000/- shall be paid by the appellants, herein, to the Arunachal Pradesh State Legal Services Authority, within a period of 3(three) months from today, and a receipt of the payment thereof, shall be produced before the Registrar, Gauhati High Court, Itanagar Permanent Bench, Yupia, which shall be kept in the records of the present proceedings.

54. With the above directions and observations, these writ appeals stands dismissed.

JUDGE

JUDGE

Comparing Assistant