

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.13 of 2025

Smt. Arati Nath, W/o Shri Nirod Baran Debnath, A.A. Road, Kalyani, P.O.
Agartala College: 799004, Agartala

.....Petitioner(s);

Versus

1. Land Acquisition Collector (ADM, Kailashahar) (Office of the D.M. & Collector, Kailashahar), Unakoti Tripura
2. The Director, Secondary Education, Government of Tripura (Requiring Deptt.), Office Lane, Agartala-799001

.....Respondent(s).

For Petitioner(s) : Mr. Sudipta Sekhar Debnath, Advocate,
Mr. Debarun Singh Kunwar, Advocate.

For Respondent(s) : Mr. Karnajit De, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

03/04/2025

Heard Mr. Sudipta Sekhar Debnath, learned counsel for the petitioner and Mr. Karnajit De, learned Additional Government Advocate for the respondents-State.

2. Brief undisputed facts as are necessary to decide the issue in controversy and are borne out from the pleadings on record are as under:

A compensation of Rs.2,41,878/- was paid to the petitioner in lieu of acquisition of her land measuring 0.73 acre pertaining to RS Plot No.998/1594 of Khatian No.481 of mouja Kamrangabari under Gournagar T.K. for construction of Kendriya Vidyalaya, Kailashahar under notification dated 10.05.2007. The awarded amount was paid to the petitioner on 17.04.2008. On reference the Land Acquisition Judge enhanced the award to Rs.8,35,000/- (Rs.8,24,500/- for land + Rs.10,500/- for trees) vide judgment dated 13.04.2011. The matter was taken before this Court in an appeal by the

respondent-department and a cross appeal was also filed. This Court reduced the compensation from Rs.6.00 lakh per kani to Rs.2.49 lakh per kani vide judgment dated 12.04.2016 [Annexure-R/4]. The operative part of the judgment reads as under:

“18. The LA Appeal filed by the appellant is, accordingly, partly allowed. Cross objection stands dismissed. The referring-claimant i.e. the cross objector is entitled to get compensation towards price of land @ Rs.2,49,000/- (Two Lakh Forty Nine Thousand) per kani for the acquired 0.73 acres of land. She will be further entitled to get solatium and interest etc., as prescribed by law. The price of standing trees determined by the learned LA Judge is maintained. The judgment and award passed by learned LA Judge is interfered to the extent as indicated herein-above and the appeal accordingly stands disposed of.”

The enhanced compensation as allowed by this Court in LA appeal remained unpaid along with interest. Therefore, petitioner had to approach the LA Collector, Unakoti on 04.03.2022. Correspondence ensued between the LA Collector and the Education Department. The LA Collector prepared the award for additional amount of Rs.6,17,158/- which consists of the following amount:

1. Value of the land = Rs.4,54,425/-
2. 30% Solatium = Rs.1,36,328/-
3. 12% interest on land value from the date of Notification till preparation of the award by the Ld. LA Collector = Rs.15,905/-
4. Value of Trees = Rs.10,500/=
- Total amount = Rs.6,17,158/-

3. Since earlier Rs.2,41,878/- was already paid and the same was deducted, the balance amount of Rs.3,75,280/- was requisitioned from the Education Department. Meanwhile petitioner filed an execution case being Civil Misc. (Execution) 09 of 2023 before the Additional District Judge (LA Judge), Kailashahar on 06.10.2023. By order dated 30.07.2024, the respondent was directed to pay balance or additional awarded amount of Rs.1,97,953/- to the petitioner within a period of one month. That sum has been paid on 12.09.2024 by the respondent.

4. In the aforesaid factual background, the respondents have contended that petitioner is not entitled to any further interest. It is not in dispute that the interest has been calculated over the enhanced amount till the date of the judgment dated 12.04.2016.

5. Law casts a statutory obligation upon the LA Collector to pay the enhanced compensation along with interest till it is paid. The ratio laid down by the Constitution Bench of the Apex Court in the case of ***Gurpreet Singh vrs. Union of India*** reported in **(2006) 8 SCC 457** is quoted hereinbelow:

"29. Let us now consider the scheme of the Land Acquisition Act, 1894 as amended by the Land Acquisition (Amendment) Act 68 of 1984. After the publication of the preliminary notification under Section 4 of the Act and after hearing of objections, a declaration has to be made under Section 6 of the Act. The Collector is then to take the order for acquisition from the appropriate Government or the officer authorised in that behalf by the Government. After completing the formalities contemplated and the enquiry made in terms of Section 11 of the Act, the Collector has to make an award indicating the true area of the land, the compensation which in his opinion should be allowed for the land and the apportionment of the compensation among the persons known or believed to be interested in the land. In making the award, the Collector shall be guided by Sections 23 and 24 dealing with matters to be considered in determining the compensation and matters to be excluded in determining the compensation as enjoined by Section 15 of the Act. Under Section 12 of the Act, the award becomes final as between the Collector and the persons interested and the Collector is to give notice of his award to persons interested. On making the award, the Collector may take possession of the land in terms of Section 16 of the Act. Under Section 31, on making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by the contingencies referred to in Section 31 itself. Under Section 34 of the Act, when the amount of compensation awarded is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent per annum from the time of taking possession till it shall have been paid or deposited. But if the compensation or any part thereof is not paid within a period of one year from the date on which possession is taken, interest is payable at the rate of fifteen per cent per annum from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry. It is relevant to notice that on payment of the amounts thus due, the award made by the Collector stands satisfied.

30. A person interested, who is not satisfied with the amount of compensation awarded by the Collector is entitled to receive the amount under protest and could apply to the Collector requiring him to refer the matter to the court in terms of Section 18 of the Act. The Collector is then to make a

statement to the court and the court is entitled to fix the compensation subject to Section 25 of the Act which provides that the amount of compensation awarded by the court shall not be less than the amount awarded by the Collector under Section 11 of the Act. In fixing the compensation, the court shall have regard to the matters referred to in Sections 23 and 24 of the Act. Under Section 26, every award shall be deemed to be a decree within the meaning of Section 2(2) of the Code of Civil Procedure and every reasoned award shall be deemed to be a judgment as defined in Section 2(9) of the Code of Civil Procedure. Under Section 27 of the Act, every award made by the court shall also contain directions regarding the costs incurred in the proceedings in court, the costs of the claimant found entitled to enhancement, normally to be borne by the Collector. Under Section 28 of the Act, the court which has awarded compensation in excess of the sum which the Collector did award as compensation, may direct that the Collector shall pay interest on such excess at the rate of nine per cent per annum from the date on which he took possession of the land to the date of payment of such excess into court. The proviso enjoins the court to direct that where such excess or any part thereof is paid into court after the expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent per annum, shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into court after the date of such expiry. Two aspects require to be noted. One is that the interest is payable only on the excess amount of compensation awarded by the Reference Court and the second is that interest on the enhanced amount awarded is payable from the date of taking possession at the rate of 9% per annum for the first year after taking possession and thereafter at 15% per annum till the deposit of the excess is made. This clearly indicates that there is no scope for the reopening of the appropriation already made pursuant to the award. The other significant factor is that the award should specify the amount awarded as market value of the land separately and the other amount, if any, awarded under other heads of Section 23(1).

31. Under Section 54 of the Act, a person, still not satisfied with the decree of enhancement in his favour on the reference under Section 18 of the Act, has a right to file an appeal to the High Court and from the decision of the High Court in such an appeal, an appeal to the Supreme Court. If one were to go by the definition of “Court” occurring in Section 3(d) of the Act, Section 28 providing for payment of interest on excess compensation may not apply to an appeal under Section 54 of the Act on the excess, if any awarded by the High Court or in subsequent appeal by the Supreme Court. But when in an appeal under Section 54 of the Act, the appellate court further enhances the compensation, it awards the compensation that the Reference Court ought to have awarded and so understood, Section 28 of the Act may be applied at the appellate stage. If the expression “Court” used in Section 28 of the Act is understood in the generic sense, (on the basis that the context otherwise requires it), the result would be the same. The other provision relevant to be noted is Section 53 of the Act which makes the Code of Civil Procedure applicable to all proceedings before the Court under the Act save insofar as the provisions of the Code are found to be inconsistent with anything contained in the Act. Section 54 also does not keep out the Code, but makes the appeal under it subject to the provisions of the Code applicable to appeals from original decrees.

32. In the scheme of the Act, it is seen that the award of compensation is at different stages. The first stage occurs when the award is passed. Obviously, the award takes in all the amounts contemplated by Section 23(1), Section 23(1-A), Section 23(2) and the interest contemplated by Section 34 of the Act. The whole of that amount is paid or deposited by the Collector in terms of Section 31 of the Act. At this stage, no shortfall in

deposit is contemplated, since the Collector has to pay or deposit the amount awarded by him. If a shortfall is pointed out, it may have to be made up at that stage and the principle of appropriation may apply, though it is difficult to contemplate a partial deposit at that stage. On the deposit by the Collector under Section 31 of the Act, the first stage comes to an end subject to the right of the claimant to notice of the deposit and withdrawal or acceptance of the amount with or without protest.

33. The second stage occurs on a reference under Section 18 of the Act. When the Reference Court awards enhanced compensation, it has necessarily to take note of the enhanced amounts payable under Section 23(1), Section 23(1-A), Section 23(2) and interest on the enhanced amount as provided in Section 28 of the Act and costs in terms of Section 27. The Collector has the duty to deposit these amounts pursuant to the deemed decree thus passed. This has nothing to do with the earlier deposit made or to be made under and after the award. If the deposit made, falls short of the enhancement decreed, there can arise the question of appropriation at that stage, in relation to the amount enhanced on the reference.

34. The third stage occurs, when in appeal, the High Court enhances the compensation as indicated already. That enhanced compensation would also bear interest on the enhanced portion of the compensation, when Section 28 is applied. The enhanced amount thus calculated will have to be deposited in addition to the amount awarded by the Reference Court if it had not already been deposited.

35. The fourth stage may be when the Supreme Court enhances the compensation and at that stage too, the same rule would apply.

36. Can a claimant or decree-holder who has received the entire amount awarded by the Reference Court or who had notice of the deposit of the entire amount so awarded, claim interest on the amount he has already received merely because the appellate court has enhanced the compensation and has made payable additional compensation? We have already referred to Order 21 and Order 24 of the Code to point out that such a blanket reopening of the transaction is not warranted even in respect of a money decree. Section 28 of the Act indicates that the award of interest is confined to the excess compensation awarded and it is to be paid from the date of dispossession. This is in consonance with the position that a fresh reappropriation is not contemplated or warranted by the scheme of the Act. But if there is any shortfall at any stage, the claimant or decree-holder can seek to apply the rule of appropriation in respect of that amount, first towards interest and costs and then towards the principal, unless the decree otherwise directs.

37. In *Sunder v. Union of India* [(2001) 7 SCC 211 : 2001 Supp (3) SCR 176] this Court posed the question, as to what is meant by “the compensation” awarded. The Court concluded: (SCC p. 230, para 23)

“We make it clear that the compensation awarded would include not only the total sum arrived at as per sub-section (1) of Section 23 but the remaining sub-sections thereof as well. It is thus clear from Section 34 that the expression ‘awarded amount’ would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-sections thereof.”

38. This shows that there is no distinction made between land value and solatium on the one hand and the interest awardable on the other, under Section 23(1-A) of the Act. It is on this sum that the interest under Section 34 of the Act is awarded and if it were a reference, awarded under Section 28 of the Act, in addition to costs, if any. Thus, the award by the

Collector and the deemed decree passed on reference contain the components of compensation and interest in the first, and interest and costs in the second."

6. Therefore, the respondent-LA Collector should have paid the enhanced compensation after deducting the compensation already paid under the Award passed by the learned LA Collector along with interest on the enhanced amount till it is paid in the manner prescribed by the decision in the case of Gurpreet Singh (supra). The learned Executing Court has, therefore, fell in error in directing the LA Collector to pay the balance or additional awarded amount of Rs.1,97,953/- calculated from the date of 18.04.2008, i.e. the date of payment made by the L.A. Collector till the date of judgment, i.e. 12.04.2016 passed in L.A. Appeal to the decree holder vide order dated 30.07.2024.

7. Upon hearing learned counsel for the parties and after taking note of these undisputed material facts, this Court is of the view that the impugned order suffers from errors. Accordingly, it is set aside. The respondent No.1 shall pay the amount of enhanced compensation as directed by the learned Land Acquisition Appellate Court vide judgment dated 12.04.2016 along with interest till the date of payment in the manner laid down by the Apex Court in the case of **Gurpreet Singh** (supra).

8. The instant petition is disposed of. Pending application(s), if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

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