

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.70/2025

Sri Samar Kumar Bhaumik, S/O. Late Jamini Kumar Bhaumik, R/O. Vill.-
Shyamali Bazar, P.O.-Kunjaban, P.S.-New Capital Complex, District-West
Tripura, Pin:-799006.

..... Petitioner(s).

V E R S U S

1. The Agartala Municipal Corporation, Represented by its Municipal
Commissioner, City Centre Complex, Paradise Chowmuhani, P.O.-Agartala,
P.S.-West Agartala, District-West Tripura, Pin-799001.

2. The Land Acquisition Collector, Agartala, West Tripura, O/O D.M. &
Collector, West Tripura, Agartala, Pin-799001.

.....Respondent(s).

For Petitioner(s) : Mr. Pradip Rathor, Advocate,
Mr. Nanda Gopal Nandi, Advocate,
Ms. Titu Rani Shil, Advocate.

For Respondent(s) : Mr. P. Gautam, Sr. G.A.,
Mr. Arijit Bhaumik, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

Date of hearing & judgment : **25.11.2025.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

Heard Mr. Pradip Rathor, counsel appearing for the petitioner and
Mr. Arijit Bhaumik, counsel appearing for the respondent No.1-Agartala
Municipal Corporation.

2. This Revision is filed by the petitioner challenging the order
dt.24.02.2025 in Ex(M) No.01 of 2018 passed by the Land Acquisition Judge,
Court No.2, West Tripura, Agartala.

3. The petitioner is a Power of Attorney holder of the owner of a
parcel of land which had been notified for acquisition by the State Government

on 10.02.2006 for construction of a new dumping ground at Mouja-Debendra Nagar under Sadar Sub-Division, West Tripura District.

4. The Land Acquisition Collector, West Tripura, Agartala (respondent no.2) granted Rs.25,000/- per acre for tilla class of land and Rs.30,000/- per acre for lunga class land along with statutory benefits.

5. The owner of the land sought a reference under Section 18 of the Land Acquisition Act, 1894 (for short, "*the Act*") which was numbered as Misc. (L.A) 21/2011 by the Land Acquisition Judge, Court No.3, West Tripura, Agartala claiming compensation @ Rs.15 lakhs per kani.

6. Vide judgment dt.24.6.2016, the L.A. Judge, West Tripura, Agartala enhanced the compensation to Rs.2,50,000/- per kani for tilla class of land along with statutory benefits.

7. Then a Review petition being Civil Misc. (Review) No.19 of 2016 was filed by the Power of Attorney holder seeking review of the said judgment and the said review was allowed on 07.07.2017 and certain modifications in the judgment of the Reference Court were made.

8. Thereafter, the petitioner filed Ex(M) No.01 of 2018 before the Addl. District Judge (Land Acquisition Judge), Court No.2, West Tripura, Agartala.

9. In that petition, an issue arose about the date of actual taking of possession of the subject land from the land owner. The petitioner contended that the same is 13.01.2009 which was disputed by the respondents who contended that it was 23.12.2010.

10. The Executing Court then passed an order on 13.6.2022 holding that the date of dispossession is 13.1.2009 and compensation has to be calculated on the said basis only.

11. This was challenged before this Court in CRP No.61 of 2022 by the Agartala Municipal Corporation (respondent no.1), the beneficiary.

12. This Court allowed the said Revision on 12.8.2022, set aside the order of the Executing Court and directed the Executing Court to consider the possession certificate issued under section 16 of the L.A. Act, 1894 on 23.12.2010 and pass orders afresh.

13. Thereafter, on 20.12.2022 the learned Additional District Judge (L.A. Judge), Court No.2, West Tripura, Agartala accepted the date of taking possession of the land to be 23.12.2010 as contended by respondents and asked the parties to file a fresh calculation of compensation on that basis.

14. This was challenged by the Agartala Municipal Corporation in CRP No.26 of 2023 before this Court.

15. The said CRP was disposed of on 5.7.2023 by this Court with a direction to the Executing Court to consider and take a decision on the issue of due execution of the award taking into account also the computation prepared under the signature of the Land Acquisition Officer and Land Acquisition Collector, West Tripura, Agartala taking the date of possession as 23.12.2010.

16. This judgment was questioned by the petitioner before the Supreme Court of India in SLP (Civil) Diary No.46658 of 2023.

17. The Supreme Court on 24-11-2023 set aside the order of the High Court and directed the Executing Court, on the basis of the evidence led before

it by the parties, and decide whether the effective date of possession is 13.01.2009 or 23.12.2010.

18. When the matter came back to the Executing Court after the order was passed by the Supreme Court, the Executing Court passed the impugned order on 24.02.2025 accepting the contention of the respondent-Corporation that the date of taking possession is 23.12.2010 only and not 13.01.2009.

19. Challenging the same, this Revision is filed by the petitioner.

20. The counsel for the petitioner has drawn the attention of this Court to the evidence adduced by the parties in the Section 18 reference by both parties and pointed out that nowhere was a plea taken by the respondent-Corporation witness therein that they had taken possession on 23.12.2010. He also pointed out that even in the Executing Court such evidence was not adduced by the respondents.

21. According to him, the so called possession certificate bearing the date 23.12.2010 allegedly issued under Section 16 of the L.A. Act by the Office of the District Magistrate, West Tripura, Agartala, which is being relied by the respondents, does not contain the signature of the owner of the land or the Power of Attorney holder and contains only the signature of other parties whose lands were also acquired under the same notification referred to above. He therefore contended that the said date cannot be taken into account at all.

22. He also contended that admittedly the District Magistrate, West Tripura, Agartala had issued a notice on 24.12.2008 to the owner of the property stating that she should vacate and deliver possession of the property on or before 13.01.2009; and, therefore, he contended that the possession has to be deemed to have been taken on that day only.

23. Counsel for the Agartala Municipal Corporation, however, contended that the order passed by the Supreme Court is void because the Execution Petition had already been disposed of on 12.10.2023 much before the order was passed by the Supreme Court on 24.11.2023 and the Executing Court had become *functus officio*.

24. This contention has no merit for the reason that the said Corporation had not filed any review in the Supreme Court taking the above ground and has accepted the order of the Supreme Court in toto. Once the Supreme Court had directed the Executing Court to decide the said issue as to what is the effective date of taking of possession, it is not permissible for the respondent-Corporation to contend that the Executing Court had become *functus officio* by virtue of its order dt.12.10.2023. The Supreme Court order revives the Execution Application and it has to be decided as per the Supreme Court order.

25. If the contentions of the Corporation were to be accepted, it would mean that the Executing Court would refuse to pass any order pursuant to the order passed by the Supreme Court on 24.11.2023 in SLP (Civil) Diary No.46658 of 2023 and would technically be in contempt of the said order inviting punishment from the Supreme Court. The Corporation, to satisfy its ego, cannot put the Presiding Judge of the Executing Court in such an awkward position by taking such an untenable and atrocious plea.

26. The other contention of the counsel for the respondent was that in the document bearing the date 23.12.2010 though the owner of the property had not signed, that date alone can be taken into consideration as the date of taking of possession for the reason that the owner of the land had executed a Power of

Attorney in favour of the petitioner herein on 04.06.2010 stating that she was residing in Chennai and, therefore, had appointed the petitioner to deal with the land acquisition issues.

27. A reading of the document dt.23.12.2010 relied upon by the counsel for the respondent shows that the said document had not been referred to in the deposition of the witnesses examined on behalf of the respondents in the Reference Court, who have not mentioned the date of actual taking of possession of the land in the said deposition. No evidence even in the Execution Petition was let in by the Corporation even after the remand to prove this fact.

28. When the said document is not signed by the owner of the land or her representative, the same cannot be held binding on the owner of the land or her representative.

29. Moreover in the document dt.23.12.2010, one of the awardees by name Amit Lal Saha, who signed the said document, appears to have affixed the signature on 10.09.2010 while the Surveyor of the District Magistrate's Office had signed on 23.12.2010.

30. If the signature of one of the other awardees was obtained on 10.09.2010 of taking over of actual possession of the land, how the date of 23.12.2010 could be put by the Surveyor of the District Magistrate's Office, is not explained by the counsel for the respondent-Corporation.

31. I hold that this document which does not contain the signature of the owner of the subject land or its Power of Attorney holder does not bind the owner of the land or the Power of Attorney holder.

32. Since it is not disputed that the District Magistrate and Collector, West Tripura, Agartala had himself issued the notice dt.24.12.2008 directing the

owner of the land to vacate and deliver possession of the property on or before 13.01.2009, it has to be taken that possession was taken on the said date because if the owner had not done so, then the respondents would have approached the Sub-Divisional Magistrate and obtained an order for enforcing surrender under Section 47 of the Land Acquisition Act, 1894, which is admittedly not their case.

33. Therefore, the normal course of human conduct would indicate that possession of the land in question was taken by the respondents from the owner of the land on 13.01.2009 itself and not on any other later date as is being contended by the respondents.

34. The finding of the Executing Court to the contra is perverse and contrary to evidence on record and it had erred in relying on the document dt.23.12.2010 without applying its mind to its contents.

35. Accordingly, the Revision is allowed; the order dt.24.02.2025 in Ex(M) No.01 of 2018 of the Land Acquisition Judge, Court No.2, West Tripura, Agartala is set aside; the date of taking possession of the land from the owner is held to be 13.01.2009; the Court below shall compute compensation on that basis and then he shall decide whether the decree of the Reference Court has been satisfied or not. If not satisfied, he shall do the needful and ensure payment of balance, if any, by the respondents within 8(eight) weeks to petitioner.

Pending application(s), if any, stands disposed of.

(M.S. RAMACHANDRA RAO, CJ)

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