

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.116 of 2024

1. Sri Swapan Sarkar, S/O Lt. Debesh Chandra Sarkar, Resident of-Kalikapur, Ramnagar, Ward No.15, Agartala Municipal Corporation, P.O.-Boarder Rampur, Dist-West Tripura, Pin-799002.
2. Smt.Rina Sarkar, W/O Lt. Mishan Chandra Sarkar, @ Mishan Sarkar, Resident of- Kalikapur, Ramnagar, Ward No. 15, Agartala Municipal Corporation, P.O.-Boarder Rampur, Dist -West Tripura, Pin-799002.
3. Sri Rajesh Sarkar, S/O Lt. Mishan Chandra Sarkar @ Mishan Sarkar, Resident of-Kalikapur, Ramnagar, Ward No.15, Agartala Municipal Corporation, P.O.-Boarder Rampur, Dist -West Tripura, Pin-799002.
4. Smt. Sampa Rani Sarkar, W/O, Sri Bimal Das & D/O- Lt. Mishan Chandra Sarkar @ Mishan Sarkar, Resident of-Kalikapur, Ramnagar, Ward No.15, Agartala Municipal Corporation, P.O.-Boarder Rampur, Dist-West Tripura, Pin-799002.
5. Smt. Soma Sarkar, W/O Sri Biswanath Majumder & D/O Lt. Mishan Chandra Sarkar. @ Mishan Sarkar, Resident of-Kalikapur, Ramnagar, Ward No.15,Agartala Municipal Corporation, P.O.-Boarder Rampur, Dist.-West Tripura, Pin-799002.

.....Appellants(s);

Versus

1. The State of Tripura to be represented by the Secretary, Revenue Department, Government of Tripura, New Secretariat Building, Capital Complex, Kunjaban, P.S.- New Capital Complex, Agartala, West Tripura, Pin-799010.
2. The District Magistrate & Collector, West Tripura, Government of Tripura, Agartala, Pin-799001.
3. The L.A. Collector, West Tripura, (Addl. District Magistrate & Collector), Office of the D.M. & Collector, West Tripura, Government of Tripura, Agartala, Pin-799001.
4. The Sub-Divisional Magistrate, Sadar Sub-Division, Government of Tripura, Agartala, West Tripura, Pin-799001.

.....Respondent(s)

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate.

For Respondent(s) : Mr. Saktimoy Chakraborti, Advocate General,
Ms. P. Chakraborty, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Order

13/02/2025

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel for the petitioners and Mr. Saktimoy Chakraborti, learned Advocate General assisted by Ms. P. Chakraborty, learned counsel for the State.

2. The learned writ Court by the impugned order dated 23.09.2024 passed in WP(C) No.604/2024 has refused to allow the main prayer of the petitioner for a direction upon the respondent Nos.1 to 4 who are the State of Tripura; the District Magistrate & Collector, West Tripura; the L.A. Collector, West Tripura and the Sub-Divisional Magistrate, Sadar Sub-Division, Agartala to release the award money of Rs.79,15,938/- in the ratio of Rs.39,57,969/- to the writ petitioner No.1-Sri Swapan Sarkar and Rs.9,89,492.25/- each to rest of the petitioners who are the legal heirs of Lt. Mishan Sarkar, namely 1) Rina Sarkar (wife); 2) Rajesh Sarkar (son); 3) Sampa Rani Sarkar (daughter); and 4) Soma Sarkar (daughter). The claim of the petitioner was based upon a plea that they are recorded as permissive occupier in respect of the land acquired under notification dated 02.08.2018 by the Land Acquisition Collector, West Tripura, for development of Integrated Check Post (ICP), Agartala under Section 19(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter refer to as 'Act of 2013'). The petitioners themselves asserted that Abdul Aziz & others were the original owners of the aforesaid land notified for acquisition. But by an unregistered Deed of Exchange dated, 30.05.1964, he left behind to the

neighboring country and, thereafter, Debesh Ch. Sarkar who is the predecessor of the petitioner, took the possession of the land of Abdul Aziz and others at Agartala. After his death his 2(two) sons namely, Mishan Sarkar @Mishan Chandra Sarkar and Swapan Sarkar being legal heirs became absolute joint owners and possessors of the said suit land. The L.A. Collector, West Tripura, Agartala, had issued notice to Rayati- Abdul Aziz & Ors, permissible occupier namely Mishan Sarkar @ Mishan Chandra Sarkar and Swapan Sarkar, who are sons of Debesh Ch. Sarkar of Ramnagar, to vacate and deliver the possession of the acquired land. The predecessor of the petitioners were also asked to appear before the learned S.D.M, Sadar office on 20.07.2019 with all required testimonial, bank details etc. to receive the awarded compensation of Rs.79,15,938/-(Rupees seventy nine lacs fifteen thousand nine hundred thirty eight) only against Apportionment Sl. No.03 in case No.L.A.01/SDR/18. They were informed that without correction of the records, awarded money cannot be disbursed. Therefore, the petitioners had approached the writ Court.

3. The learned writ Court held as under:

“When this Court has pointed out that the petitioners have to show the ownership document upon which they are making claim-statement, learned counsel for the petitioners has produced Xerox copy of an unregistered sale-deed of the year 1964. It is settled principle of law that such unregistered document cannot be considered in the eye of law to declare the petitioners as lawful owners. The khatian which is placed on record, is only a revenue entry and it is not a title document. However, the petitioners are given liberty to place

any ownership document including the succession of the property to the concerned respondents since the petitioner No.1 is claiming that his father was the original owner of the land in question. On receipt of such documents from the petitioners, the concerned respondents shall decide the matter on merits in accordance with law as expeditiously as possible preferably within a period of three months.

With the above directions, the present petition is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.”

4. Evidently the learned writ Court granted opportunity to the petitioners to approach the concerned respondents who were directed to decide the matter in accordance with law as expeditiously as possible. Petitioners being aggrieved have approached this Court.

5. Mr. P. Roy Barman, learned senior counsel for the petitioners/appellants inter alia has submitted that appellants are the legal heirs of one Debesh Chandra Sarkar who under an unregistered deed of exchange of 30.05.1964 have claimed compensation in lieu of acquisition of land by the LAC, West Tripura vide notification dated 10.07.2018 in respect of land measuring 0.210 acre, Dag No.4245, Class- Nal, under Khatian No.1263/1,4 in Ramnagar Tehsil, MoujaRamnagar, Street No.2/P for the purposes of development of Integrated Check Post (ICP), Agartala under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [hereinafter referred to as “Act of 2013”].

Petitioners/appellants herein approached the learned Writ Court on failure of the LAC to release the award amount of Rs.79,15,938/- to the petitioner No.1 and Rs.9,89,492.25/- each to the legal heirs of his deceased brother namely Lt. Mishan Sarkar alias Mishan Chandra Sarkar, another son of Late Debesh Chandra Sarkar. The learned Writ Court however refused to grant relief. It instead gave liberty to the petitioner to place document of ownership including succession of the property to the concerned respondents who were directed to decide the same in accordance with law within a stipulated period.

6. Mr. P. Roy Barman, leaned senior counsel for the appellants has referred to the provisions of Section 3(c)(vi) and 3(r) of the definition clause under the Act of 2013 to submit that an affected family would also mean a family residing on any land in the urban areas for preceeding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land and that “land owner” under clause (r) includes any person whose name is recorded as the owner of the land or building or part thereof in the records of the authority concerned. It is not in dispute that appellants are regarded as permissive occupier and not the land owner in the record of rights; perhaps that is why the LAC did not disburse the amount in their favour.

7. Mr. P. Roy Barman, leaned senior counsel for the appellants further submits that in respect of acquisition of land under the same notification in the same mouja, disbursement of compensation had been made to others who are also recorded as permissible occupier having got the land through

unregistered deed of exchange from the same original owner Abdul Aziz who later on left for neighbouring country. Since Abdul Aziz and others have left for the neighbouring country, therefore, they could not fall in the category of 'persons interested' as per the Act of 2013.

8. Additional documents have been filed pursuant to the order dated 28.11.2024 by the petitioners/appellants ascertain that a common award dated 11.08.2004 passed in Misc. L.A. No.84/1994 and Misc. L.A. No.47/1994 and others by the learned L.A. Judge, Agartala, West Tripura, compensation had been awarded to the respective claimants who are the permissive occupiers in respect to acquisition of land from them for construction of the fencing road Tripura-Bangladesh border. They also assert that pursuant to the award in Misc. L.A. No.82 of 1994 passed in favour of Sachindra Biswas, Birendra Biswas, Khitindra Biswas, and Shitendra Biswas all are sons of late Dignedra Biswas, compensation has been enhanced by the learned L.A. Judge, West Tripura, in respect of acquisition made towards C.S. Plot No.3440/p, 3442/p under Khatian No.2376.

9. According to the petitioners by virtue of the un-registered deed of exchange dated 30.05.1964, the right, title, interest in respect of the land in favour of Debesh Chandra Sarkar, the petitioners predecessors have been crystallized the deed of exchange (Annexure-10). These documents have been placed to substantiate the plea that the compensation has been awarded in similar circumstances by the L.A. Collector or L.A. Judge, in favour of the land loser though they might be in the same category as permissive occupier.

Therefore, the impugned order may be set aside and the respondent No.3 may be directed to release the awarded amount in favour of the petitioners.

10. Mr. Saktimoy Chakraborti, learned Advocate General appearing for the respondent-State submits that the status of the petitioners even on the basis of their admitted case is only that of a permissive occupier and that too on the basis of an un-registered deed of exchange dated 30.05.1964 with one Abdul Aziz and others, the original owners whose name still stands in the record of rights and who left for the neighbouring country. In such circumstances, the title of the petitioners on the piece of land acquired is not established. The LA Collector will have genuine reasons not to release the award in their favour. Therefore, the best course for the petitioners is to approach the competent Court of civil jurisdiction for declaration of their right, title and interest over the piece of land so acquired. The learned writ Court has also while observing that the revenue entry cannot be treated as a title document, given liberty to the petitioners to produce any ownership documents including succession of the property before the concerned respondent to establish their claim. Therefore, the impugned order may not be interfered.

11. On consideration of the rival submissions of the parties and relevant materials placed from record, the point of law raised by the learned senior counsel for the petitioners also, we are of the considered view that on an issue relating to the ownership of the acquired land in question, this Court in exercise of writ jurisdiction or at the appellate stage should not enter into any determination. Petitioners have been claiming compensation on the claim of

being permissive occupier on the basis of an un-registered deed of exchange dated 30.05.1964 through their predecessor from a person who has left for the neighbouring country. On the other hand, petitioners have placed certain documents to show that compensation has been awarded in certain cases. It is therefore, open for them either to approach the respondent No.3-Land Acquisition Collector with such additional documents to establish their plea of release of compensation on grounds of parity or to approach the competent Court of civil jurisdiction to establish their title.

12. Accordingly, the instant petition is disposed of. Pending application(s), if any, also stand disposed of.

(BISWAJIT PALIT),J

(APARESH KUMAR SINGH), CJ