

THE HIGH COURT OF TRIPURA
AGARTALA

LA App. 34 of 2009

1. **Shri Jatindra Das**
S/O Late Hatendra Das
Village-Kamalpur,
P.O. Ananda Pur
P.S.- P.R. Bari, Belonia,
South Tripura.
2. **Shri Krishnalal Nama**
S/O Late Arjun Nama
Village-Kamalpur,
P.O. Ananda Pur
P.S.- P.R. Bari, Belonia,
South Tripura.

..... appellants

- Versus -

1. **Sri Promode Paul**
S/O Gopal Paul
Village-Kamalpur,
P.O. Ananda Pur
P.S.- P.R. Bari, Belonia,
South Tripura.
2. **Shrimati Maya Rani Paul**
W/O Shri Promode Paul
Village-Kamalpur,
P.O. Ananda Pur
P.S.- P.R. Bari, Belonia,
South Tripura.

.....Referring Claimant Respondents

3. **The Land Acquisition Collector**
South Tripura, Udaipur.

.....Opposite Party Respondent

BEFORE
THE HON'BLE MR. JUSTICE U.B.SAHA

For the appellants	: Mr. A Das (Gupta), Advocate.
For the respondents	: None.
Date of hearing & delivery of Judgment and Order	: 04.07.2015
Whether fit for reporting	: No.

JUDGEMENT AND ORDER (ORAL)

This appeal is preferred by the appellants challenging the judgment delivered on 11.06.2009 in LA (Reference) No. 06 of 2009 wherein the LA Judge, South Tripura, Belonia held that the respondents- 1st party members Sri Promode Paul and Smt. Maya Rani Paul are the true owners of the acquired land and accordingly they are entitled to get the entire amount of compensation of Rs. 65,462/-.

2. Heard Mr. A Das Gupta, learned counsel for the appellants. None is present on behalf of the respondents.

3. Facts needed to be discussed are as follows:

The Govt. of Tripura vide notification No. F.9(11)-Rev/ACQ/XII/05 dated 19.05.2005 acquired land measuring 0.34 acres belonging to Sri Promode Paul and his wife Smt. Maya Rani Paul for construction of IBB fencing at Mouja Kamalpur, Belonia, South Tripura and accordingly compensation of Rs. 65,462/- was awarded. The dispute started when Jatindra Das and one Krishna Nama made a prayer to the LA Collector for getting the award of compensation being they were in possession and thereafter, the LA Collector referred the matter to the learned LA Judge under Section 30 of the Act.

4. The respondents submitted their claim statement before the learned LA Judge contending that the acquired land was allotted in their name by the DM & Collector, South Tripura, Udaipur vide allotment case No. 31/05 dated 04.07.1984 and accordingly Khatian Nos. 686 and 358 was created in their name and that was finally published. The 1st

party, therefore, claimed for the award of compensation as true owner and possessor by way of allotment.

5. On the other hand, the appellant herein, who were the 2nd party objectors, also filed their written statement contending that the acquired land was allotted in the name of the 1st party wrongly. The 1st party never possessed the acquired land. On the contrary, the appellants have been possessing the acquired land and have made prayer to the Sub-Divisional Magistrate for cancellation of the order of allotment in the name of the respondents 1st party and accordingly inquiry was done and the proposal was initiated for cancellation of the allotment in the name of the respondent 1st party. By virtue of wrong order of allotment in the name of 1st party, they were not entitled to get award of compensation.

6. The learned LA Judge perused the order of allotment and Khatian No. 686 (Exhibit 1 series) and came to the conclusion that all those documents clearly show that the respondents are the truthful owners and possessors of the acquired land. It is also stated that so long the allotment order and Khatian No. 686 and 358 exists in the name of the respondent 1st party, they are the truthful owners of the acquired land. It also appears from the record that the appellants 2nd party members failed to produce any order of allotment in their name. In view of the above, the learned LA Judge held that the respondents are the true owners of the acquired land and they are entitled to get the entire amount of compensation of Rs. 65,462/-.

7. Being aggrieved by the judgment and award of the learned LA Judge, Belonia, South Tripura, the appellants preferred this appeal.

8. Mr. Das Gupta, while urging for setting aside the impugned judgment would contend that admittedly the land was allotted in the name of the respondents but the appellant had taken up the matter with the SDO, Belonia for cancelling the allotment order issued in favour of the respondents but till date the allotment order has not been canceled. He further submits that the respondents were never in possession of the land.

9. Even if the respondents were not in the possession of the land then also they are entitled to the award passed by the Collector as they are the true owners of the land. It also appears from the record that the appellants 2nd Party in their written statement did not mention specifically how much quantity of land was in their possession and they are also not aware about the quantity and boundary of the land acquired. Thus, it can be easily held that they were not in possession. Had they been in possession they would have been aware about the boundary of the acquired land.

10. In view of the above, the learned LA Judge did not commit any wrong while determining the title of the respondents and directing the LA Collector to make the payment of the award of compensation in favour of the respondents. In the result the appeal is dismissed.

11. Interim order passed earlier stands vacated. Send down the lower court records.

JUDGE