

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 469 of 2010

Sri Nikhil Ch. Banik

S/o Lt. Dinesh Ch. Banik
Resident of South Mirzapur
College Square, P.O. Sarashima,
P.S. Belonia, South Tripura.

..... Petitioner.

VERSUS

1. The State of Tripura

Represented by the Secretary
To the Government of Tripura
Revenue Department
New Secretariat Complex
P.S. East Agartala,
P.O. Kunjaban, Agartala-799006.

2. The Land Acquisition Collector,

South Tripura District, Udaipur,
P.O + P.S.-Radhakishorepur,
Udaipur, South Tripura.

3. The Secretary

to the Government of Tripura
New Secretariat Complex
P.S. East Agartala, P.O. Kunjaban,
Agartala-799006.

..... Respondents

BEFORE

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

For the petitioner	: Mr. D Bhattacharji, Advocate
For the respondents	: Mr. B Dutta, Advocate
Date of hearing & delivery of Judgment & order	: 10.08.2015.
Whether fit for reporting	: No

JUDGMENT AND ORDER (ORAL)

By this writ petition, the petitioner Sri Nikhil Ch. Banik prayed for setting aside the decision of the LA Collector contained in Communication No. F.4(5)/DM/S/LA/B/2001/2195-97 dated 20.02.2010

(Annexure 12 to the writ petition) whereby and whereunder the LA Collector assessed the compensation amounting to Rs. 3,000/- in terms of the order passed by the Gauhati High Court, Agartala Bench in WP(C) 109/2004 after hearing the parties and also requested the present petitioner to appear before the LA Collector to receive the payment of compensation.

2. Heard Mr. D Bhattacharji, learned counsel for the petitioner as well as Mr. B Dutta, learned counsel for the respondents.

3. Brief facts needed to be discussed are as follows:-

The petitioner is the absolute owner and possessor of land pertaining to RS Plot No. 5142, Revisional Khatian No. 224 of Mouza-Belonia, Sub-Division-Belonia, South Tripura. The respondent No. 2, LA Collector, South Tripura district (the then), vide memorandum dated 16.07.2001 acquired a piece of land out of the aforesaid land of the petitioner but by a subsequent order dated 02.11.2002 the order of acquisition was withdrawn. Again on 02.11.2002, the LA Collector proceeded to acquire the land of the petitioner measuring 0.74 acres and accordingly a fresh notification was issued covering the petitioners RCC structural building measuring 1650 Sq. feet consisting of 14 rooms and the petitioner was directed to vacate the said premises. After vacation, on 24.06.2003 the respondent No. 2 informed the petitioner that fund had been received from the requiring department for compensation. As per notification dated 24.01.2002 the respondent No. 2, LA Collector took possession of the acquired land and the respondent No. 3 removed all the brick walls inside the building of the petitioner.

4. After causing so much damage to the property of the petitioner, the respondents again by memorandum dated 01.10.2003 de-acquisitioned the said land. Being aggrieved by the action of the respondents, the petitioner filed one writ petition for compensation before the Gauhati High Court, Agartala Bench which was numbered as WP(C) 109/2004. The said writ petition was disposed of by a judgment dated 11.11.2009 directing the writ petitioner to submit a fresh representation to the LA Collector within a period of two weeks along with a copy of that order and the LA Collector, Udaipur, South Tripura was directed to complete the exercise for determination of compensation as contemplated under Section 48(2) of the Land Acquisition Act, 1894 within a period of three months from the date of receipt of the representation from the petitioner.

5. In terms of the aforesaid order of the Gauhati High Court, Agartala Bench in the aforesaid writ petition, the LA Collector issued notice to the Executive Engineer, PWD Belonia Division, i.e. the requiring department and also the petitioner to remain present at the spot on 04.02.2010 at 12.30 p.m. in order to ascertain the quantum of damage sustained by the land owner-petitioner and also to dispose of the representation of the petitioner. Thereafter, hearing the parties, the LA Collector determined compensation for damage of the property of the petitioner amounting to Rs. 3,000/- and the said order was communicated by the impugned order dated 20.02.2010 (Anenxure-12 to the writ petition). Being aggrieved by the said decision of the LA Collector, the petitioner preferred the present writ petition.

6. The respondents, by way of filing counter affidavit, denied the allegations of the petitioner and specifically stated that the possession of the land was taken over only on paper and some pillars were posted to identify the proposed acquired land but no physical damage and dismantle of pucca construction was made, even no tree was cut down from the land proposed for acquisition. As per the letter of the Executive Engineer, PWD, Southern Division No. II, Santirbazar, land measuring 0.343 acres including the land of the petitioner was excluded from the acquisition and notice regarding withdrawal of the land was issued to the petitioner but the petitioner denied to receive the said notice. After disposal of the writ petition being WP(C) 109/2004, the petitioner made a representation and thereafter, notice was issued to the parties and finally the impugned order was passed.

7. Mr. Bhattacharji, learned counsel for the petitioner submits that the compensation awarded is inadequate and thus, the same should be quashed and after filing of the representation, the petitioner was not provided any opportunity of being heard. Thus, the impugned order is required to be quashed.

8. On the other hand Mr. Dutta, learned counsel appearing for the respondents submits that from Annexure-11 to the writ petition, i.e. the letter dated 25.01.2010 it would be evident that the petitioner was also informed to remain present at the spot in order to ascertain the quantum of damage. Thus, it cannot be said that the petitioner was not provided any opportunity for hearing. He further submits that if the petitioner is not happy with the assessment of compensation, as

mentioned in the impugned order, then he should have approached the LA Collector within the stipulated period as prescribed in the statute.

9. This Court has gone through the judgment and order dated 11.11.2009 passed in WP(C) 109/2004 wherein the learned Single Judge of the Gauhati High Court rejected some of the contention of the petitioner including the prayer for reference under Section 18 of the LA Act and ultimately directed him to make a representation to the Collector and the Collector was directed to determine the compensation as contemplated under Section 48(2) of the LA Act.

10. It appears from the record that the LA Collector provided all opportunities to the petitioner as well as the requiring department while assessing the compensation, as ordered, under Section 48(2) of the LA Act in terms of the order of the Gauhati High Court, Agartala Bench. Thus, according to this Court, there is no merit in the instant writ petition. However, the petitioner may approach the LA Collector to reassess the compensation, as per law, if so advised.

11. With the aforesaid order, the instant writ petition is disposed of. No Costs.

JUDGE

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