

THE HIGH COURT OF TRIPURA
AGARTALA

(1) WP(C) NO.57 OF 2011

Smt. Abaima Mog,
W/O Late Kangja Mog,
R/O Purba Nalicherra,
P.O. Kulai, Ambassa,
District-Dhalai, Tripura.

..... *Petitioner*

- *Vs* -

1. The State of Tripura,
Represented by Secretary cum Commissioner,
Revenue Department,
Government of Tripura,
New Secretariat Complex,
P.O. Kunjaban, Agartala,
West Tripura.

2. The District Magistrate & Collector,
Government of Tripura,
Dhalai District, Ambassa.

3. The Land Acquisition Collector,
Government of Tripura,
Dhalai District, Ambassa.

..... *Respondents*

(2) WP(C) NO.63 OF 2011

1. Sri Arabinda Dhar,
S/O Late Adwaitya Ch. Dhar,

2. Sri Akhil Ch. Dhar,
S/O Late Adwaitya Ch. Dhar,

Both are resident of Purba
Nalicherra(Nabagram),
P.O. Kulai, P.S. Ambassa,
District-Dhalai Tripura.

..... *Petitioners*

- *Vs* -

1. The State of Tripura,
Represented by Secretary cum Commissioner,
Revenue Department,
Government of Tripura,

New Secretariat Complex,
P.O. Kunjaban, Agartala,
West Tripura.

2. The District Magistrate & Collector,
Government of Tripura,
Dhalai District, Ambassa.

3. The Land Acquisition Collector,
Government of Tripura,
Dhalai District, Ambassa.

..... *Respondents*

BEFORE
HON’BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON’BLE MR. JUSTICE S.C. DAS

For all the petitioners : Mr. A. C. Bhowmik, Sr. Advocate
Mr. D.C. Roy, Advocate

For all the respondents : Mr. S. Chakraborty, Addl. G.A.

Date of hearing and
delivery of Judgment
& order : **16.06.2015**

Whether fit for
reporting :

Yes	No
	✓

JUDGMENT & ORDER(ORAL)

(Deepak Gupta, C.J.)

Both these petitions are being disposed of by a common judgment since the questions of fact and law involved are virtually identical.

2. The State of Tripura issued notification under Sections 4, 5, 6 and 9 of the Land Acquisition Act proposing to acquire some portion of the land of the petitioners in Mouja-Purba

Nalicherra, Nalicherra T.K. under Ambassa Sub-Division. It is not disputed that these lands of the petitioners are sought to be acquired for constructing a Block office. The main objection raised on behalf of the petitioners is that the stand of the State is that the Block office should be constructed next to the Panchayat Samiti office. It is urged by Sri A.C. Bhowmik, learned senior counsel appearing for the petitioners that there is no policy that the Block office should be near the Panchayat Samiti office. He also submits that the acquisition is for an ulterior purpose and the Block office can be built somewhere else and it is not necessary to acquire the lands of the petitioners. The petitioners have also offered other land for the said purpose. Sri Bhowmik has also relied upon the judgment of the Apex Court in ***Collector (District Magistrate), Allahabad v. Raja Ram Jaiswal, (1985) 3 SCC 1***, especially the observations in para 26 of the judgment which read as follows:

"26. Where power is conferred to achieve a purpose it has been repeatedly reiterated that the power must be exercised reasonably and in good faith to effectuate the purpose. And in this context 'in good faith' means 'for legitimate reasons'. Where power is exercised for extraneous or irrelevant considerations or reasons, it is unquestionably a colourable exercise of power or fraud on power and the exercise of power is vitiated. If the power to acquire land is to be exercised, it must be exercised bona fide for the statutory purpose and for none other. If it is exercised for an extraneous, irrelevant or non-germane consideration, the acquiring

authority can be charged with legal mala fides. In such a situation there is no question of any personal ill-will or motive. In Municipal Council of Sydney v. Campbell, 1925 AC 338, 375 it was observed that irrelevant considerations on which power to acquire land is exercised, would vitiate compulsory purchase orders or scheme depending on them. In State of Punjab v. Gurdial Singh, (1980) 1 SCR 1071 : (1980) 2 SCC 471 acquisition of land for constructing a grain market was challenged on the ground of legal mala fides.”

He has also placed reliance on the judgment of the Apex Court in ***Vinod Kumar v. State of Haryana & Ors., (2014) 3 SCC 203.***

3. At the outset we may note that we are dealing with matters under the Land Acquisition Act of 1894. The construction of a Government office which includes a Block office is definitely a public purpose and there can be no two opinions about this. We cannot agree with the learned counsel that construction of a Block office is not a public purpose.

4. As far as the second objection is concerned, it appears to be that it is not necessary to construct the Block office next to the Panchayat Samiti and there is no such policy of the State Government. Even if there is no policy it is for the State to decide where the Block office should be constructed and it cannot be said that the decision of the State to construct the Block office next to

the Panchayat Samiti office is a totally irrelevant consideration. The Panchayat Samiti is the elected body of the villagers. In a democracy, elected persons have certain powers and privileges and the voters go to their elected representatives to represent them before higher officials including the Block Development Officer. Therefore, we see nothing wrong in the decision taken by the State Government to construct the Block office close to the Panchayat Samiti.

5. We may also note that Ambassa is a newly developed district and Ambassa is one of the few towns in Tripura which has been developed on a more scientific basis. It has a separate area for offices, separate area for residences, and therefore, if the Government in its wisdom has thought it fit to construct the Block office near to the Panchayat Samiti, no error can be found in the opinion of the Government.

6. As far as the judgments cited by Mr. Bhowmik are concerned, in our considered view, these are not at all relevant to decide the issue. In ***Raja Ram Jaiswal's case (supra)***, the facts were entirely different. In that case the land of the writ petitioner was sought to be acquired for the public purpose of extension of the Hindi Sangrahalaya (Museum) of the Hindi Sahitya Sammelan, Prayag. The High Court as well as the Supreme Court came to the conclusion that the Allahabad Municipal Board had earlier handed over large portions of land to the Sammelan for the construction of

a Sangrahalaya and there was already 7,315 sq. yards of vacant land lying with the Sammelan for construction of the Sangrahalaya. It was in these circumstances where the Sammelan already had more than 7,315 sq. yards vacant land lying with it for construction of the museum that the Apex Court held that the acquisition of 2,865 sq. yards of land for this purpose was totally unjustified.

7. As far as the judgment in ***Vinod Kumar's case (supra)*** is concerned the facts of that case are also totally different. In that case, the Land Acquisition Collector in his report to the State had given a report that the land which was the subject matter of the litigation before the Courts should not be and was not required to be acquired. The Land Acquisition Collector being an officer of the Government himself had given this report and it was in these circumstances that the Apex Court held that the State Government could not have ignored the report of the Land Acquisition Collector without giving adequate reasons for differing with the report of the Land Acquisition Collector. In this view of the matter, we are clearly of the view that both the aforesaid judgments do not apply to the present cases.

8. We also find in these cases that the petitioners were given hearing by the Collector and the Land Acquisition Collector after hearing found that the acquisition of land was necessary. It would be pertinent to mention here that as far as the petitioner in

WP(C) No.57 of 2011 is concerned she is the owner of 1.58 acres of land in the mouja in question and out of this only 0.13 acres is sought to be acquired and the balance 1.45 acres will remain with her. Therefore, it cannot be said that all her land is being acquired and she will be displaced from that land.

9. As far as the petitioners in WP(C) No.63 of 2011 are concerned, they are two brothers and in the case of petitioner No.1, Arabinda Dhar, only 0.005 acres of land is sought to be acquired out of his holding of 0.27 acres which will mean that he will still be left with 0.265 acres of land. As far as the other brother is concerned, he is losing a larger portion of his land because he is owner of 0.10 acres of land but what is being required is 0.01 acres of land and therefore he will be left with 0.09 acres of land, *i.e.* 90% of the land shall still remain with him.

10. In these circumstances, we find no merit in the writ petitions which are accordingly dismissed.

JUDGE

CHIEF JUSTICE