

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) No. 75 of 2015

Petitioner:

Smti. Kajal Das @ Biswas (Das)

W/O. Shri Jhulan Kanti Das of
Vill- North Jolaibari, P.S. Baikhora,
Sub- Division- Santirbazar,
District- South Tripura, Pin-799141

By Advocate:

Mr. S.M. Chakraborty, Advocate
Ms. B. Chakraborty, Advocate

– Versus –

Respondents:

1. **The Union of India**
represented by the Secretary,
Ministry of Road Transport and High Way,
New Delhi
2. **The National Highway Authority of India**
Under the Ministry of Road Transport and
Highway, New Delhi

(Notice upon the respondent Nos.1 and 2 are to
be served through the learned Assistant Solicitor
General of India, High Court of Tripura, Agartala)

3. **The State of Tripura**
represented by the Principal Secretary,
PWD and National High Way-44,
New Capital Complex, P.O. Agartala Secretariat,
Pin-799010

By Advocate:

Mr. B. Majumder, C.G.C
Ms. A.S. Lodh, Addl. G.A.

B-E-F-O-R-E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR.JUSTICE S. TALAPATRA

Date of hearing and delivery : **24.08.2015**
of judgment and order

Whether it is fit for reporting : No

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

The main grievance of the petitioner in the writ petition is that the respondents are unnecessarily acquiring the land of the petitioner especially that portion of the land where his residential accommodation is situated. The case of the petitioner is that the road can easily be constructed by aligning it in such a fashion that the residential hut of the petitioner is not affected.

02. Since this was the main grievance, on 20th April, 2015 we had directed the senior most officer implementing the road projects in Tripura on behalf of the National Highway Authority of India to visit the site and submit a report to this Court whether it is technically feasible to widen the road without disturbing the built up property of the petitioner. The reply has been filed and in para-3 of the affidavit, which has now been filed reads as follows:

"3. That with reference to the statements/averments made in paragraph 3 of the objection submitted by the petitioner I say that it is technically not feasible to shift/change the alignment in any manner. And in my report dated 03.06.2015 I have specifically mentioned that the radius of proposed curve at the location of petitioner's property is 258 m. A vehicle at a speed of 80 km/h can negotiate the proposed curve. The restriction in speed to 25 km/h at the location near the property of the petitioner will be a safety hazard and will create an accidental black spot on the highway. Further, the motorist driving at a speed of 60 km/h throughout the road will not be able to anticipate the sudden reduction in the speed and will find difficult to negotiate this curved which may lead to fatal accident and damage to nearby properties and motorist. The substandard development of road with improvement of curves will turn this location into a traffic hazard and may be detrimental to the safety of the commuters."

03. It is urged by Mr. S.M. Chakraborty, learned senior counsel that the respondents are taking a very rigid view and have closed their mind to the idea of excluding the land of the petitioner. We cannot go into

this aspect of the matter. Para-3 of the affidavit quoted hereinabove, clearly depicts the view of the authority that the safety of road traffic can only be built in case the land of the petitioner is acquired. Individual rights have to give way to public rights and if public safety and road safety requires that the land of the petitioner has to be acquired, then we cannot interfere with the matter. This Court in writ petition is only to see whether the procedure prescribed by law has been followed and it cannot set in judgment over the views taken by an administrative authority unless such view is perverse.

04. Therefore, as far as this prayer is made, we find no merit in this writ petition. Another argument raised by Mr. S.M. Chakraborty, learned senior counsel now as per the alignments shown plot No. 489 is also required for construction of the road but this land is not part of the acquisition. This fact has been admitted by the General Manager (Project), NHIDCL in his affidavit and he has stated as follows:

4. That with reference to the statements/averments made in paragraphs 4 & 5, I say that plot No.489 in Mouja Jolaibari has also been included in the alignment for proposed widening of NH-44, but the said plot No.489 has been inadvertently left out from the proposal and consequently not published in the acquisition notification and remained un-acquired. And for this an additional proposal for acquisition will be initiated in due course.

05. It is up to the department to acquire the land or not, but since even according to the department, the road cannot be built unless plot No. 489 is acquired. The only relief we can grant to the petitioner is that he shall not be dispossessed of his hut till the plot No.489 is also acquired in accordance with law.

With this observation and direction, this writ petition is disposed of.

JUDGE

CHIEF JUSTICE