

26.04.2024
Sl. No. 2.
D/L.
Mithun
Ct.No.23.

**In the High Court at Calcutta
Special Civil Jurisdiction
Appellate Side**

CPAN 890 of 2019

**Kishorilal Agarwal
Vs.
Anit Thapa
In
MAT 969 of 2018**

**Gorkha Land Territorial Administration & Ors.
Vs.
Kishorilal Agarwal
& Ors.**

Mr. Sakya Sen,
Mr. Rajib Mullick,
Ms. Shreyashi Maity

..for the petitioner.

Mr. B.P.Subba, Sr. Adv.

...for the contemnor.

After hearing the parties, it appears that the Gorkhaland Territorial Administration (in short 'GTA') by shifting its stand from time to time has been able to delay the actual hearing of the matter.

It is submitted by GTA that to pay the balance consideration aggregating to Rs.3,21,60,389/-, the approval of the State Government was required. The GTA has now received the approval as submitted by Mr. B.B.Subba, the learned Advocate representing the alleged contemnor to deposit this balance sum of Rs.3,21,60,389/- and GTA is willing to deposit such

sum. The fact remains that this money was required to be paid long back in terms of the contract. Even subsequently GTA did not take any step for acquisition of the land though they were permitted to do so. At a belated stage as submitted by the learned Advocate for the petitioner that GTA has expressed its desire to deposit the money. This is nothing but yet another attempt to delay the matter by shift of stand by GTA.

The only course now open, according to the learned Advocate for the petitioner, is to direct GTA to return back possession of the land.

On the issue of possession, the learned Advocate for the alleged contemnor disputes the submission made by the petitioner. It is submitted that the possession of the land was all along with the petitioner. In support of such contention which is, however, being raised by the alleged contemnor for the first time in this contempt proceedings, it is submitted that during the pendency of the proceedings, the writ petitioner has applied for conversion of the nature and character of the land which can only be done if one is in actual possession of the land. That apart, it is also submitted by GTA that the petitioner has, during the pendency of the matter sold away several plots being portion of the land in

question. This submission is, however, disputed on behalf of the petitioner.

We also find that allowing GTA to deposit the said sum of Rs.3,21,60,389/- is purported compliance of the order at this stage will be harsh on the petitioner as the principal sum is only being offered to be paid after lapse of about 6 years. No interest or compensation is offered for the delay. However, since such proposal has come and that the GTA will not be in a position to take a specific stand within a short span in respect of paying interest or compensation due to the ongoing General Election, the matter is adjourned till 14th June, 2024. GTA should think of providing interest on the said sum of Rs.3,21,60,389/- and the petitioner should also consider the offer, if interest is agreed to be paid.

(Supratim Bhattacharya) (Arindam Mukherjee, J.)