HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) No.286/2020

For Petitioner(s) : Mr. D.R. Chowdhury, Advocate.

For Respondents No.4 to 6 : Mr. A. Sengupta, Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

03/12/2020.

Petitioner Bachan Saha is a son of deceased Kalidas Saha. According to him, his father had made a Will on 29.09.2000 in which land at measuring 2.14 acres classified as Lunga Nal, Khatian No.1225, Mouja Bishalgarh was bequeathed to the petitioner. The father thereafter died on 11.10.2003. Thus, according to the petitioner, on the basis of the said Will he became the sole owner of the said land. A part of the said land was acquired by the authorities under the National Highway Act, 1956 for the purpose of widening National Highway No.44. The petitioner approached the authorities claiming his right over the compensation by writing a letter to the SDM, Bishalgarh on 17.04.2017. The private-respondents No.4 to 11, who are the relatives of the petitioner claim their share in the compensation, disputing the validity of the Will. Some of them had also filed proceedings before the civil court to challenge the Will.

Learned counsel for the petitioner submitted that in terms of the provisions of the National Highway Act, 1956, the compensation should have been paid to the petitioner or at any rate the dispute should be referred to an Arbitrator. The said authority has taken neither of these two steps.

On the other hand, learned counsel for the respondents No.4 to 6 submitted that civil proceedings challenging the Will of the father of the petitioner are pending and at this stage, compensation cannot be disbursed in favour of the petitioner.

It is not necessary for me to go into the internal disputes between the petitioner and the private-respondents. Section 3H of the National Highway Act, 1956 pertains to deposit and payment of amount. Under sub-Section (1) of Section 3H, the amount determined under section 3G would be deposited by the Central Government with the competent authority before taking possession of the land. It is undisputed that an amount of Rs.44,26,866/- has been deposited by the Central Government with the competent authority, Additional District Magistrate & Collector, Sepahijala. Under sub-Section (2) of Section 3H as soon as the amount has been deposited, the competent authority would pay the same to the person or persons entitled thereto. If there are more persons interested than one, as per sub-Section (3) of Section 3H, the competent authority would decide

the amount payable to each one of them. Sub-Section (4) of Section 3H, which is important, reads as under:

> "(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction with the limits of whose jurisdiction the land is situated."

Thus, as per sub-Section (4) of Section 3H, if any dispute arises as to apportionment of the amount or any part thereof or to any person to whom the same or part is payable, the competent authority would refer the dispute to the decision of the principal civil court of original jurisdiction within the limits where the land is situated.

In the present case, such a dispute has arisen. The competent authority therefore should have made a reference to the competent civil Judge in terms of sub-Section (4) of Section 3H of the National Highway Act, 1956. He shall therefore do so within a period of 4 (four) weeks from today. All contentions of both sides are kept open, which shall be raised before the said authority in such a reference.

Petition disposed of accordingly. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI), CJ

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