HIGH COURT OF TRIPURA
AGARTALA

CRP No.55 of 2019

For Petitioner(s) : Mr. R. Dasgupta, Adv.

For Respondent(s) : Mr. R. Datta, Adv.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

01/12/2020

Heard Mr. R. Dasgupta, learned counsel appearing for the petitioners and Mr. R. Datta, learned counsel appearing for the respondent No.1. The respondent No.2 is not represented by anyone. The reason may be that the respondent No.2 is a statutory authority, nominated to assess the damage for acquisition of right to use the land made under provisions of Petroleum and Minerals & Pipelines Act, 1962 (in short P&MP Act, 1962) and under the Petroleum and Minerals, Pipelines (Acquisition of Right of User in Land) Rules, 1962.

The grievances of the petitioner are manifold. But Mr. Dasgupta, learned counsel while making his submission has quite assertively submitted that while entertaining the challenge against the order dated 03.02.2012, passed by the competent authority [Exbt.-6], apart from ascertaining the value of the rubber trees, the damages caused by the acquisition to use the land has been determined in the following manner:

> **"It reveals from the assessment order dated 03.02.2012 in Exbt.F that the competent authority did not grant any compensation in respect of the acquired land when from Exbt.7 it is found that the land in question with other land measuring 1.20 acres were allotted by the Government of Tripura in favour of the claimant petitioner Smt. Sachirani Debbarma for which it is not possible on the part of the claimant petitioner to prove any registered sale deed in respect of her land. But there is no doubt that the claimant petitioner has suffered a huge loss due to damage of land acquired by the competent authority and as such the claimant petitioner is entitled to get a lumsum compensation of Rs.1,00,000/- towards damage of land."**

Mr. Dasgupta, learned counsel has submitted that there is no reason how the said amount has been ascertained as the damage. That apart, Mr. Dasgupta, learned counsel has contended that the order which has been challenged in the petition under Section 10 of the P&MP Act was issued on 03.02.2012, not on 07.06.2007 as reflected in the cause title. As such, undue advantage has been taken by the said claimant (the respondent No.2) in counting the limitation. According to Mr. Dasgupta, learned counsel, the order dated 28.09.2018 as passed in Civil Misc(PMP) 37 of 2014 by the Addl. District Judge, Sepahijala District is also bad because the said petition was hopelessly barred by limitation. Further, Mr. Dasgupta, learned counsel has submitted that the damage for felling or cutting down the trees, as has been determined, is also not tenable because there is no evidence to support the claim.

Mr. R. Datta, learned counsel appearing for the claimant [the respondent No.1 herein] has submitted that adequate evidence has been laid in support of the claim by the

respondent No.1 in the court of the District Judge in the said proceeding.

Having perused the judgment this court is in partial agreement with Mr. Dasgupta, learned counsel appearing for the petitioner, as it surfaces that there is no analysis of the evidence in determining the compensation either for the tree or for the land. It appears further that the issue of the limitation has not been determined. It appears that the erroneous date as written in the cause title has impeded proper determination in respect of limitation.

This court is of the considered opinion that this is a case where the matter be remanded for consideration and determination by the Addl. District Judge to whom the petition under Section 10 of P&MP Act was placed for adjudication. To pave the way for remand, the impugned order dated 28.09.2018 stands set aside. The case being Civil Misc.(PMP) 37 of 2014 is remanded. The said case shall be re-heard and decided within a period of 4(four) months from the date when the said court shall receive this order from this court. It is clarified that while registering the case, the said case was erroneously registered as Misc. LA 37 of 2014, even though that was not a case under Section 18 or Section 30 of the Land Acquisition Act. This was an omission or mistake of the court

and for that, the parties cannot suffer. Therefore this part shall not be open for further scrutiny. The petition under Section 10 of the PM&P Act was filed in the jurisdictional court as stated.

Any objection relating to the jurisdiction can also be raised by the petitioner. The parties may be allowed to adduce additional evidence, if they are inclined to.

Hence, the petition stands allowed partly.

There shall be no order as to costs.

JUDGE

Moumita