

01. 20.04.2023
bd. Ct.15

W.P.A. 15039 of 2011

Kalimpong Industries Pvt. Ltd

-vs-

The State of West Bengal & Ors.

Mr. Rupayan Deb

Ms. Priya Nandi

... for the petitioner.

Mr. Amal Kumar Sen

Mr. Lalmohan Basu

... for the State.

Mr. B.P. Subba

... for GTA

Pursuant to the order passed by this Court today an affidavit has been filed on behalf of Gorkhaland Territorial Administration affirmed by Sri Samden Dukpa, Executive Director Gorkhaland Territorial Administration, on 18th April, 2023 which is taken on record.

On perusal of such affidavit this Court finds it proper to quote paragraph 5 hereinbelow:

“ I say that it will take 9 months time for construction and completion of the alternative road/thoroughfare for the remaining land of the petitioner near the Capsule Lake, Kalimpong-I Block by the Kalimpong Engineering Division of Gorkhaland Territorial Administration.”

It is to be noted herein that in the order dated

21st November, 2022 this Court gave three options to the Gorkhaland Territorial Administration authorities as well as State respondents which are set out below:

- i. *“To retain/acquire the entire 4.80 acres land of the petitioner for the project of supply of water to the town of Kalimpong.*
- ii. *To return the entire piece of land measuring 4.80 acres to the petitioner along with rent compensation to be computed from 2003 till date.*
- iii. *To make an alternative provision, which would give access to the petitioner from said well-constructed PWD road to the 4.00 acres land of the petitioner, if necessary by constructing an alternative road giving passage to vehicles”.*

It is also recorded in the previous order that the concerned respondent authorities opted third option amongst the three aforementioned options given to the authority. Pursuant thereto a detailed plan has been submitted before this Court for construction of alternative approach road to remaining 4.00 acres of land of Kalimpong Industries Pvt. Ltd. near Capsule Lake, (Jorepokhari) at Deolo, Kalimpong-I.

Having considered this detailed plan submitted on behalf of respondent authorities this Court wanted to know from the learned advocates representing the respondents authorities the time to be consumed for construction of such alternative vehicular road which would give passage to the petitioner from the nearby PWD road to the said 4.00 acres of land of the petitioner and this Court directed the Gorkhaland Territorial Administration authorities to file an affidavit disclosing such time.

Pursuant to such direction passed by this Court today an affidavit has been filed and it has been averred in paragraph 5 of the said affidavit that the concerned respondent authorities will require 9 months time to make construction of alternative vehicular approach road to remaining 4.00 acres of land of the petitioner.

Having considered this affidavit and statements made in paragraph 5, the writ petition stands disposed of by directing the concerned authorities of Gorkhaland Territorial Administration as well as State respondents to complete the construction of alternative vehicular approach road which would give vehicular passage to the petitioner from nearby PWD road to 4.00 acres of land within a period of 9 months from this date.

It is also required to be noted herein that pursuant to the order passed by this Court on 8th December, 2022 the concerned authorities of

Gorkhaland Territorial Administration has already paid Rs. 22,25,588/- to the petitioner towards rent compensation for retaining the land in question from the year 2003 onwards. However due to exercise of third option 4.00 acres of land stands released from the possession of the respondent authorities in favour of the petitioner and petitioner shall be free to enjoy the ownership and possession of the said 4.00 acres of land.

However, on behalf of petitioner submissions have been made that such compensation is not adequate and there should be determination of proper compensation to be paid by the concerned respondent authorities for retaining said piece of land for such a long period of time from 2003 till date.

Considering such submissions made on behalf of the petitioner this Court grants leave to the petitioner to take steps in accordance with law, if so advised, for determination and release of compensation for retaining the land in question from 2003 onwards.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)