

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

117 30.4.2024

FMAT 16 of 2023

Ct-01

**Union of India
Vs.
Terai Tea Company Ltd. & Anr.**

ar

Mr. Sudipto Kumar Mazumdar, Ld. D.S.J.I
Mr. Ajoy Kumar Singhania
... For the Appellant/Union of India

Mr. Aniruddha Chatterjee
Mr. Bikraaditya Ghosh
Mr. Sitesh Gupta
... For the Respondents

1. This appeal is arising out of an award passed by the learned Arbitrator on 29th April, 2023 in disposing of an application filed by Union of India for modification of the award dated 3rd April, 2019 made in the arbitration proceeding that was pursued in terms of the provisions of Section 8, Sub-section (1)(b) of the Requisitioning and Acquisition of Immovable Property Act, 1952 for the purpose of determination of requisition as well as acquisition compensation payable thereunder for the tea garden.
2. It appears that the award finally passed by the learned Arbitrator was modified by a coordinate bench by its judgment and order dated 13th June, 2022 in connection with an appeal filed under Requisitioning and Acquisition of Immovable Property Act, 1952 by the award-

holder, Terai Teac Co. Ltd. & Another. In the said judgment the issues framed by the learned Arbitrator is mentioned in paragraph 12 which reads as follows:-

“1. Is the claim petition at all maintainable in its present form?

2. Is the claim petition bad for defect of parties?

3. Whether the claimants are entitled to get compensation as against requisition of the tea garden land by the respondent under the said Act, 1952 for the plot of land measuring about 20.22 acres in Mouja Bhujipari under J.L No. 83 within Bagdogra P.S area in the district of Darjeeling for the period from 28.11.1962 to till date and in respect of the plot of land measuring around 25.10 acres in Mouzas Harsinghchat and Kadpani under J.L Nos. 10 and 11 within Bagdogra P.S area in the District of Darjeeling from 28.11.62 till mid March, 1992?

4. Whether the claimants are entitled for requisition compensation in respect of tea garden land measuring about 0.50 acres in Mouza Harsinghchat under J.L No. 10 within Bagdogra P.S in the district of Darjeeling for the period from 01.01.1993 till date?

5. Whether for determination of rent compensation for requisitioned lands the market value of the land and trees is to be assessed in the light of the principle enunciated under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013? And if so then to what extent of the share of the market value of the land can be accepted as

rent compensation payable to the claimants?

6. Are the claimants entitled to any compensation in respect of movable property?

7. Are only the claimants entitled to any rent as compensation for the requisitioned of jungle property?

8. What would be proper method for determination of values of trees and tree bushes, destroyed by the respondent in utilizing the plots of land in question after requisition of the same by them?

9. Whether, as a perpetual lessee, the claimant no. 1 is entitled to get the entire share of rent compensation, which may be found appropriate upon adjudication by the Learned Arbitrator?

10. Whether the claimants are entitled to any interest on the value of the tree bushes and tree destroyed on requisition of land and on the rent compensation for the past period and if so at what rate?

11. Why not the demand of the claimants will be assessed strictly under the provisions of Requisition & Acquisition of Immovable Property Act, 1972?

12. Are the claimants entitled to any interest for the arrear compensation?

13. What other or further reliefs to which the claimants are entitled to in law and equity.”

3. The coordinate bench in disposing of the appeal was of the view that an opportunity may be given to the award-holder to establish its claim with regard to the issue nos. 6, 8 and 10 and accordingly set aside the award passed by the learned Arbitrator with regard to the issue nos. 6, 8 and 10.

4. Before the learned Arbitrator an application has been filed by Union of India raising an issue with regard to the quantum of land and ancillary issues related thereto.
5. We have carefully perused the application filed before the learned Arbitrator. It appears from the said application that it does not relate to issue nos. 6, 8 and 10. In view of limited remand and the ambit and scope of jurisdiction that the learned Arbitrator is required to exercise his power in terms of limited remand. Learned Arbitrator could not have decided the said issue, namely, the quantum of land. There was already an adjudication on this issue earlier when the initial award was passed. The learned Arbitrator has rightly, in our view, rejected the said application on the ground that the Arbitrator has no jurisdiction to decide the said issue in view of limited remand and the learned Arbitrator cannot travel beyond the issues, which are now required to be decided in terms of the order of remand.
6. Learned D.S.J.I has submitted that the Union of India has recently come to know from the State Government about the exact quantum of the land, which was handed over to Army, after the award was passed.

7. However, this issue cannot be decided by the learned Arbitrator in view of the limited order of remand.
8. In view of the aforesaid, we do not find any merit in this appeal.
9. The appeal being FMAT 16 of 2023 stands dismissed.
10. However, we make it clear that we have not decided the issues raised by the learned DSGI with regard to quantum of land. The appellant shall be at liberty to take appropriate steps in accordance with law.
11. There will be no order as to costs.
12. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)

