



IN THE HIGH COURT OF SIKKIM


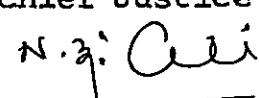

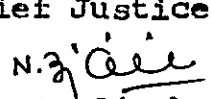

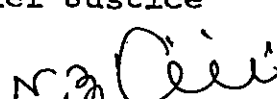
ORDER SHEET

Writ Petition (C) No. 17 of 2004

BIRKHA BAHADUR BANIYA & ANR... Petitioner / Appellant

Versus



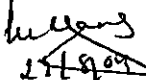
STATE OF SIKKIM Respondent

| Serial No. of Order | Date of Order | Order with Signature | Office Note as to action (if any) taken on Order |
|---------------------------|---------------------|--|--|
| 1. | 27.7.2004 | <p>As requested, put up this case on 10.8.2004 for admission.</p> <p> (R. K. Patra) Chief Justice</p> <p> (N. S. Singh) Judge</p> | |
| 2. | 10.8.2004 | <p>As requested by Shri S. Majumdar, Counsel for the petitioner, put up on 25.8.2004 for admission to enable him to get instructions.</p> <p> (R. K. Patra) Chief Justice</p> <p> (N. S. Singh) Judge</p> | |
| 3. | 25.8.2004 | <p>Put up tomorrow for admission.</p> <p> (R. K. Patra) Chief Justice</p> <p> (N. S. Singh) Judge</p> | |



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| 4. | 26.8.2004 | <p>We have heard Shri S. Majumdar, learned counsel for the petitioners and Shri S.P.Wangdi, learned Advocate General for the respondent Nos. 1 to 4.</p> <p>2. On the basis of Notification No.45/2018/LR(s) dated 22.2.1999 (Annexure P-3), issued under Section 4(1) of the Land Acquisition Act, 1894, the State Government acquired lands mentioned therein for construction of work of 510 MW Teesta Hydroelectric Project State V by NHPC Limited. The petitioners allegation in the writ petition is that both of them are recorded tenants (vide ROR at Annexure P1 and P2) under the respondent Nos. 6 and 7 and the lands under those two RORs are the subject matter of acquisition in the aforesaid notification. According to them, both of them being tenants in respect of the lands in question have interest therein and were entitled to be noticed under Section 9(2) of the Land Acquisition Act, but the Land Acquisition Collector, without giving any notice to them, proceeded to make the award. Because of non-issue of notice to them, they were deprived of the right to file their objection. The Land Acquisition Collector determined compensation and awarded the same in favour of respondents 6 and 7, by wrongfully depriving the petitioners their legitimate right to receive compensation.</p> <p>3. In these circumstances, the petitioners pray that the Land Acquisition Collector (respondent No.4) may be directed to issue notice to them and decide their share of compensation.</p> <p>In the additional affidavit filed by the.</p> | |



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| | | <p>petitioners on 25.8.2004, they have stated that the petitioner No.1 has filed a representation dated 11.6.2003 to the Collector, East District (respondent No.4) stating that he has interest in the land and is entitled to receive compensation. He has also filed another representation to the Additional District Magistrate of the East District making the same grievance. Those representations are marked as Annexure P4 and P5 to the additional affidavit. Counsel for the petitioners submits that no decision has yet been communicated to them on the representations.</p> <p>4. Admittedly, the Collector has already made the award. It is also admitted by the petitioners in paragraph 11 of the writ petition that the respondent Nos.6 and 7 have received the awarded amount.</p> <p>5. Having regard to the facts and circumstances, we dispose of this writ petition with a direction to the Collector - respondent No.4 to consider the said representations, if pending, and communicate his decision to the petitioner No.1 as expeditiously as possible preferably within two months hence.</p> <p>6. With the above observation and direction, the writ petition is disposed of.</p> <p>7. Registry is directed to send to the Collector, East District copy of the additional affidavit filed by the petitioners together with enclosures along with a copy of this order.</p> <p style="text-align: right;"> (R. K. Patra) Chief Justice</p> <p style="text-align: right;"> (N. S. Singh) Judge</p> | <p>A copy of order along with a copy of the addl. affidavit filed by the petitioners forwarded to D.C. East on 27-8-04.</p> <p style="text-align: right;"> 27/8/04</p> |