



HIGH COURT OF SIKKIM
Record of Proceedings through Video Conferencing

WP (C) No. 21/2021

VIVEK NEWANG RAI

PETITIONER (S)

VERSUS

THE PRINCIPAL CHIEF ENGINEER-CUM-
SECRETARY, ROAD & BRIDGES DEPT. & ORS.

RESPONDENT (S)

For Petitioner : Mr. Jorgay Namka, Advocate.

For Respondents No.1 : Mr. Sudesh Joshi, Addl. Advocate General
& 3 : Mr. Sujan Sunwar, Asst. Govt. Advocate

For respondent no.2 : Ms. Sangita Pradhan, Asst. Solicitor General
of India

Date: 25/06/2021

CORAM :

HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, CJ.

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Heard Mr. Jorgay Namka, learned counsel for the petitioner, Mr. Sudesh Joshi, learned Addl. Advocate General for respondents no. 1 and 3 and Ms. Sangita Pradhan, learned Asst. Solicitor General of India for respondent no.2 on advance notice.

In the present Writ Petition the grievance of the petitioner is that respondents no. 1 and 3 have not acquired the land of the petitioner and in view of the sanction as granted by the Ministry of Road Transport and Highways, Government of India dated 03.01.2013 construction of the road has been completed. This without payment of compensation of the land and/or without legal acquisition of the land belonging to the petitioner construction of the road is undesirable. However, a direction has been sought for against respondents no. 1 and 3 to immediately asses the damages caused to the petitioner's land and to direct respondent nos.1 and 3 to make compensation to the petitioner or to pass any other orders or directions as deem fit.

After hearing the learned counsel for the parties and on perusal of the records that the Ministry of Road Transport & Highways, Government of India



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e letter dated 03.01.2013, accepting the request so made by the Superintendent Engineer, Roads and Bridges Department, Government of Sikkim granted financial sanction as per the said letter to the extent of Rs.182.28 Crores for construction of the road in view of the adherence of the conditions as specified under clause 9 of the said letter.

Grievance of the petitioner is that after such sanction, road has been constructed in which the land of the petitioner as referred in the Writ Petition has been taken without payment of compensation and without its acquisition. The representation submitted by the petitioner has been referred on 01.10.2019 by the Superintending Engineer to the District Collector, South District which has not been resolved. Thereafter, petitioner has also submitted a Legal Notice dated 18.11.2019 which was also not considered. Therefore, he came before this Court by invoking jurisdiction of this Court under Article 226 of the Constitution of India.

On perusal of the aforesaid facts and the averments, as made in the Writ Petition, at present this Petition deserves to be disposed of with the following directions:-

- (i) The representation submitted by the petitioner referred to the District Collector vide Annexure P-4 and P-5 has not been considered and remained unaddressed. Similarly, the Legal Notice sent on 18.11.2019 to the Chief Secretary, Government of Sikkim, Superintending Engineer-NH, Roads & Bridges Department, Government of Sikkim and the District Collector, District Administrative Centre, Namchi, South Sikkim has also been remained unaddressed. Therefore, the said representation and Legal Notice be considered and decided within a period of two months.
- (ii) It is further directed that while deciding the representation if the land of the petitioner has been taken for construction of the road as stated in the Writ Petition, the amount of compensation be determined within the



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said period as per the provisions of Right to Fair Compensation Act, 2013 and be paid to the petitioner further within a period of one month.

In case the petitioner is not found entitled to the relief as prayed for in the Writ Petition, the Authority shall pass appropriate order within the time as specified.

Needless to observe, if the petitioner feels aggrieved by the said order he is at liberty to take recourse of law.

Accordingly, the Writ Petition stands disposed of with the above directions.

Chief Justice