

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
CRP No.43 of 2023

The Officer-in-charge, Rear Ex-Setuk

..... Petitioner(s)

V E R S U S

Anil Plantation Private Limited and another

..... Respondent(s)

For Petitioner(s) : Mr. Biwanath Majumder, Advocate.

For Respondent(s) : Mr. D.K. Biswas, Sr. Advocate,
Mr. D. Sharma, Addl. G.A.,
Mr. D. Singh Kunwar, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

_O_R_D_E_R_

22.12.2023

Heard Mr. Biswanath Majumder, learned counsel appearing for the petitioner and Mr. D.K Biswas, learned senior counsel appearing for the respondent No.1 as well as Mr. D. Sharma, learned counsel appearing for the State.

The grievance of the petitioner is captured in the order dated 19.09.2023 which reads as under :

“Mr. Biswanath Majumder, learned counsel for the petitioner, submits that despite the petitioner being deleted before the LA Court, on an application under Order I Rule 10 of CPC, he has been impleaded at the instance of the Court at the execution stage; though earlier the petitioner was deleted from the array of the respondents by the LA Court on the clear submission that the petitioner had handed over the entire documents concerning the original LA Case bearing No. Misc (L.A) 75 of 2015 to the State of Tripura which is represented by the Executive Engineer, PWD, NH Division, Agartala. It is submitted that the acquisition has been carried out by the State Government for the establishment of camp for bypass owned by the respondent No.1 in respect of which, an award of Rs.28,12,979/- was delivered by the learned LA Judge, Bishalgarh, Sepahijala District under Section 18 of the LA Act, 1894. The petitioner's application for deletion of his name, under Order I Rule 10 of CPC from the execution case, has been rejected by the impugned order dated 08.08.2023. Therefore, petitioner has approached this Court. Issue notice on both the respondents under ordinary process and Speed Post, for which requisites be filed by Friday (22.09.2023). Mr. Majumder,

learned counsel for the petitioner, submits that some interim protection may be granted to the petitioner; otherwise the Executing Court may proceed against the petitioner, who does not owe the liability. In that view of the matter, no coercive steps be taken against the petitioner till the next date. Notice is made returnable on 29.11.2023.

The opposite party No.1 has appeared upon notice and brought to the notice of the Court that in fact the acquisition under LA Act, 1894 was for the public purpose carried out by the petitioner agency. Though earlier its name was deleted in the LA case but during proceedings of the execution case, the learned Executing Court felt that the execution of the award required presence of not only the LA Collector, West Tripura, Agartala, respondent No.2 but also the petitioner herein. It is also pointed out from the order dated 08.08.2023 passed by the learned LA Judge, Sepahijala District, Bishalgarh that learned counsel for the petitioner i.e. Border Road Organization (BRO)/General Reserve Engineer Force (GREF) assured the Executing Court that the payment shall be made within a period of two months from the date of the order. On their assurance, the order of attachment dated 01.05.2023 was stayed with the specific directions that the judgment debtor shall make payment of the compensation amount within the next date positively with up to date interest. Later, on 08.05.2023, an application was made by the petitioner to delete itself from the proceedings of the execution case as it was not a party in the LA case i.e. Misc(LA) No.75 of 2015 GREF. Learned trial Court took into consideration that on 08.06.2023 on submission of learned counsel for the present judgment debtor, the requisitioning department, GREF was inserted as the judgment debtor deleting the name of PWD, NH Division, Agartala, Government of Tripura as PWD had already handed over the project to GREF. Again, GREF has filed the petition to delete its name as it was not a party to the original case at time of the judgment. Learned Court felt that handing over of the project

from GREF to PWD or *vice versa* is their internal matter and, therefore, the Court cannot permit the requisitioning department to drag the case day after day without making any payment of the awarded amount, more so, when on the previous date the requisitioning department took adjournment for 2(two) months for making payment of the decretal amount. Therefore, they cannot deny their liability of making payment of the awarded amount. The petition was rejected with a direction to make the payment within 15 days.

On the one hand, Mr. Biswanath Majumder, learned counsel for the petitioner submits that since the petitioner was deleted during proceedings of the LA case, it should not be impleaded as a party during the execution case but he does not dispute that the acquisition was made for a public purpose being executed by the petitioner-organization. The site work was handed over to it by the PWD upon acquisition.

The land looser is entitled to compensation payable through the acquiring authority i.e. L.A. Collector. As such, it does not appeal to the court that the requisitioning department is not required to be present during the execution case.

As such, this Court is of the opinion that the petitioner does not have a tenable ground to object to his presence in the execution case. Whether the compensation amount stands deposited with the LA Collector or it is still in the pipeline for execution of the award are matters which are to be looked into by the Executing Court. As such, this Court does not intend to make any observation in that regard. Accordingly, this Court does not find any reason to interfere in the impugned order. Learned counsel for the petitioner submits that petitioner may be allowed to file a show-cause to the execution case. It is up to

the petitioner to file its objection or show-cause as permissible in law before the Executing Court.

Accordingly, petition is dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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