

HIGH COURT OF SIKKIM
Record of Proceedings

W.P. (C) No. 20/2016

Y.T. LEPCHA

Petitioner (s)

VERSUS

STATE OF SIKKIM & ORS.

Respondent (s)

Date: 11/05/2018

CORAM:

HON'BLE THE CHIEF JUSTICE.

For Petitioner (s) : Mr. B. Sharma, Sr. Advocate with Mr.
Bhola N. Sharma, Advocate.

For Respondent (s)
For R-1, R-2, R-4 & R-5: Mr. Karma Thinlay, Senior Government
Advocate with Mr. Thinlay Dorjee Bhutia,
Govt. Advocate and Mr. Santosh Kr.
Chettri, Assistant Government Advocate.

For R-3 : Mr. Sudhir Prasad, Advocate.

For R-6 : Mr. Ranjit Prasad, Advocate.

...

The instant Petition, seeking compensation for the damages to the building, was examined even earlier. On perusal of the documents appended hereto, it appears that the RO -cum- Assistant Director, Land Revenue and Disaster Management Department, by Order dated 05th September 2013 has assessed the compensation for the land ad-measuring 0.1220 hectare and also the property standing thereon to the tune of Rs.46,31,561/- (Rupees forty six lakhs, thirty one thousand, five hundred and sixty one) only.

Thereafter, the Petitioner had approached this Court in WP(C) No.42 of 2014 (Y.T. Lepcha vs. State of Sikkim & Ors.). A Division Bench of this Court, by Order dated 24th September 2015, disposed of the Petition, directing as under:-

HIGH COURT OF SIKKIM

Record of Proceedings

"We have considered the pleadings, the rival submissions of the Learned Senior Counsel for the parties and also have perused the documents available on the record. In our view, we do not find any reason to doubt that the Respondent No. 8-Company had agreed to the acquisition of both the land and the building of the Petitioner. The record is replete with evidence on this score. We have also noticed the vacillating stand taken by the Respondent No. 8 at various stages including at this stage before us. It appears that the present stand of the Respondent No. 8-Company has been taken only on account of the quantum of the compensation that was assessed which, as per them, is exorbitantly high.

However, in the midst of the arguments, it was agreed by both the sides that the matter may be referred to the District Collector, East Sikkim, Respondent No. 6, for final settlement of the dispute between the parties subject to payment of an interim amount.

Under these circumstances, we do not feel it necessary to go further into the matter except to direct as under: -

(i) Although on behalf of the Respondent No. 8-Company, Mr. A. Moulik, Learned Senior Advocate, has informed us that they are ready to pay Rs.2,50,000/- (Rupees two lakhs and fifty thousand) as a interim measure, we are of the view that a sum of Rs.5,00,000/- (Rupees five lakhs) would be reasonable. This shall be paid to the Petitioner within a period of 2 (two) weeks from hence which shall be adjusted against final award that may be arrived at before the Respondent No. 6. A compliance report of payment of interim amount shall be filed by the Respondent No. 8 as soon as it is made.

(ii) The parties shall appear before the District Collector, East Sikkim, i.e. Respondent No. 6, within 15 (fifteen) days from today.

(iii) The District Collector, Respondent No. 6, shall then enter into the dispute and decide on the questions raised in the Writ Petition. It may be observed that on 23.09.2015, **WP(C) No. 58 of 2015** in the matter of **Madhya Bharat Power Corporation Limited vs. State of Sikkim and Others**, was also referred to the District Collector, Respondent No. 6 which involve the very questions that are in issue in the present Writ Petition.

(iv) The District Collector, East Sikkim, Respondent No. 6, shall hear the parties on all aspects including application of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, having regard to the circumstance that the acquisition proceedings under the Land Acquisition Act, 1894, had not proceeded beyond the stage of notice under Section 4 (1).

(v) In order to avoid prolixity in the proceedings and to avoid confusion, the District Collector, East

HIGH COURT OF SIKKIM

Record of Proceedings

Sikkim, shall hear the subject-matter of WP(C) No. 42 of 2014 and WP(C) No. 58 of 2015 together as both are interrelated, making it clear that the entire proceedings shall be completed by him and disposed of finally within a period of 3 (three) months and not later than that.

With the above observations, the Writ Petition stands disposed of.

A copy of this order be transmitted to the Secretary, Land Revenue and Disaster Management Department, Respondent No. 2, the Secretary, Department of Energy and Power, Government of Sikkim, Respondent No. 5 and the District Collector, East Sikkim, the Respondent No. 6, for due compliance of the directions contained in this order."

It appears in pursuance thereof, the District Collector, East, de hors the direction to examine himself, constituted a Committee vide Office Order dated 18th December 2015. The Committee examined the property in dispute and on the basis of the Report submitted by the Committee, the District Collector determined a total compensation to the tune of Rs.7,51,727/- (Rupees seven lakhs, fifty one thousand, seven hundred and twenty-seven) only.

Feeling aggrieved, the Petitioner has come up with the instant Petition.

Prima facie it appears that the Order dated 24th September 2015 passed by the Division Bench of this Court in WP(C) No.42 of 2014, had not been complied with in its letter and spirit. Thus, it is apposite to refer this Petition to a Division Bench of this Court.

List it before Hon'ble the Chief Justice to constitute a Division Bench accordingly.

HIGH COURT OF SIKKIM
Record of Proceedings

Court No. 1

I.A. No.04 of 2018

This is an application seeking adjournment on behalf of the
Respondent No.6.

No Order is necessary at this stage.

Thus, the Application stands disposed of.

Chief Justice
11.05.2018

Index : ~~Yes~~ / No
jk/ds Internet : Yes / ~~No~~