

(2023) 05 SIK CK 0088
In the Sikkim High Court
Case No : Writ Petition (C) No. 50 Of 2022

Matrika Prasad Sharma & Others

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 29-05-2023

Acts Referred:

Citation : (2023) 05 SIK CK 0088

Hon'ble Judges : Bhaskar Raj Pradhan, J

Bench : Single Bench

Advocate : N. Rai, Yozan Rai, Pradeep Tamang, Tara Devi Chettri, Sangita Pradhan, Natasha Pradhan, Purnima Subba, Debal Kumar Banerji, Gita Bista, Pratikcha Gurung, Dr. Doma T. Bhutia

Final Decision : Disposed Of

Judgement

Bhaskar Raj Pradhan, J

1. The three Writ Petitioners claim to be owners of various landed properties in the newly formed Pakyong District of Sikkim. The Petitioners state that although the Respondent No.1 has issued various Notifications under the provisions of the National Highways Act, 1956 declaring its intention to acquire land for building (widening/two laning, etc.) including the bypasses, maintenance, management and operation of Ranipool-Pakyong Road National Highway No.717A, and thereafter declaring those lands to have vested with the Central Government, the properties of the Petitioners have not been notified for acquisition. It is alleged that, in the month of February, 2020, few officials of Respondent No.1 visited the house of the Petitioners without any prior notice, surveyed the area and thereafter in December, 2021, they were called to the Office of the Respondent No.3 and informed about compensation in respect of their structures set up on their lands near the Highway. According to the Petitioners, the compensation offered were unjust. Subsequently, it is alleged that Respondent No.4 visited the land of the Petitioners and asked them to vacate their premises immediately and were also issued Notice dated 24.10.2022 stating that the properties has been

acquired by the Respondent No.2 for construction/upgradation of existing lane to two lane road with paved shoulder NH-717A, including geometric improvement from Ranipool-Pakyong kilometre 0.00 to kilometre 16.167 in the State of Sikkim. It is in these circumstances that the Petitioners have approached this Court seeking a direction upon the Respondents to acquire the landed properties of the Petitioners by the sides of Ranipool-Pakyong Road by due process of law before taking their physical possession. The Respondents contests the Writ Petition on various grounds including that the Petitioners have encroached the road reserve.

2. The Petitioner no.1 is the owner of khatiyani plot no.36 with an area of .1000 hectare and khatiyani plot no.44 with an area of .1440 hectare, totalling to .2440 hectare in Chota Singtam, Naitam, Gangtok, Sikkim. This fact is clearly recorded in Parcha Khatiyani no.82.

3. The Petitioner no.2 is the owner of khatiyani plot no.64/768 with an area of .0120 hectare situated at Chota Singtam, Naitam, Gangtok, Sikkim. This fact is clearly recorded in Parcha Khatiyani no.52/187.

4. The Petitioner no.3 is the owner of khatiyani plot no.47/844 with an area of .0232 hectare; khatiyani plot no.48/845 with an area of .0161 hectare and khatiyani plot no.49/846 with an area of .0030 hectare, totalling to .0423 hectare situated at Chota Singtam, Naitam, Gangtok, Sikkim. This fact is clearly recorded in Parcha Khatiyani no.59/229.

5. During the course of the final hearing, the Learned Additional Advocate General for the Respondents No.3 and 4 and Learned Senior Advocate appearing for Respondent No.2 submit that they have no issue if the Petitioners restrict their claim to the respective Parcha Khatiyans and that they are willing to ensure that they do not carry out any of their activities in the areas specified in the Parcha Khatiyans to be the landed properties of the Petitioners.

6. The Learned Senior Advocate for the Petitioners, on instructions received from the Petitioners, submit that if this Court would protect their ownership rights as reflected in the respective Parcha Khatiyans, they would not protest the Project Work undertaken by the Respondents of expanding the National Highway.

7. In view of the clear understanding between the parties, this Court deems it appropriate to dispose of the Writ Petition without examining the merits of the issues raised by the parties by allowing the Respondents to continue with the infrastructural project of expansion of the National Highway duly ensuring that they do not infringe upon the Petitioners' rights of ownership of the plot numbers, as specified above, without following the due process of law.

8. The Writ Petition is disposed of in the above terms. No orders as to costs.

10. The order of status quo passed by this Court on 18.11.2022 hereby stands vacated. Pending applications stand disposed of accordingly.