

**HIGH COURT OF TRIPURA
AGARTALA
L.A. App. No.33 of 2024**

The Union of India

Represented by the Officer in Charge, Rear Ex SETUK
C/o 99 APO, Salbagan, West Tripura, Agartala.

---- Appellant(s)

Versus

1. Anil Plantation Private Limited,

Owner of Harishnagar Tea Estate,
Of Bishalgarh, P.S.-Bishalgarh,
District-Sepahijala,
Represented by the Manager,

2. The Land Acquisition Collector

Govt. of Tripura, Agartala

---- Respondent(s)

For Appellant(s)	:	Mr. B. Majumder, CGC.
For Respondent(s)	:	Mr. D. K. Biswas, Sr. Adv, Mr. D. S. Kunwar, Adv.
Date of hearing	:	20.06.2024
Date of delivery of Judgment & Order	:	24.06.2024
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This appeal under Section 54 of L.A. Act is preferred challenging the order dated 25.01.2024 along with other orders passed in connection with Ex(M) 02 of 2021 arising out of Misc.(L.A.) No.75 of 2015 passed by Learned L.A. Judge, Sepahijala District, Bishalgarh.

2. Heard Learned CGC Mr. B. Majumder for the appellant and also heard Learned Senior Counsel Mr. D. K. Biswas assisted by Learned Counsel Mr. D. S. Kunwar for the respondent no.1. None has appeared on behalf of the L.A. Collector.

3. At the time of hearing, Learned Counsel for the appellant submitted that in the original L.A. case, the appellant was not made as party. So, the appellant was totally in dark about the passing of award in connection with Misc.(L.A.) No.75 of 2015 but during the course of execution proceeding, the matter came to the knowledge of the appellant and accordingly, they sought redress before the Hon'ble High Court and Hon'ble the High Court by order dated 22.12.2023 passed in connection with case no. CRP No.43 of 2023 gave an opportunity to the appellant to submit reply in the execution proceeding and accordingly, the appellant filed objection before the Learned Executing Court but the Learned Executing Court did not consider the same and by order dated 25.01.2024 disallowed the objection of the appellant and challenging that order, the present appellant has preferred this appeal before the High Court. So, Learned Counsel for the appellant urged before the Court to interfere with the said order of the Executing Court by setting aside the same order and other connected orders in respect of payment of decretal amount in the aforementioned execution case bearing no. Ex(M) 02 of 2021 arising out of Misc(LA) No.75 of 2015.

4. On the other hand, Learned Senior Counsel Mr. D. K. Biswas at the very outset challenged the maintainability of the appeal before the High Court under Section 54 of L.A. Act and Learned Senior Counsel further submitted that there is no scope to prefer any appeal challenging the said order dated 25.01.2024 passed by the Learned Executing Court and as such, the appeal is liable to be rejected henceforth without any merit as the same is barred by law. Learned Senior Counsel further submitted that the present appellant before the Executing Court appeared and sought time to pay the decretal amount within a period of 2(two) months which was allowed by the Learned Executing Court but thereafter without making any payment they sought redress before the High Court and the Hon'ble High Court allowed the appellant to file objection before the Learned Executing Court and the Learned Executing Court has disposed of the said objection by order dated 25.01.2024. So, at this stage there is no scope for the appellant to prefer any appeal before the High Court challenging the order of the executing Court and urged for dismissal of this appeal with costs. Considered. Learned Senior Counsel further submitted that the appellant has preferred this appeal without any basis just to delay the process of execution.

5. I have heard detailed submission of learned Counsel of both the sides and gone through the relevant papers submitted along with the memo of appeal and also gone through the record of the execution proceeding pending before

the Executing Court. It appears that by order dated 08.06.2023, the name of the PWD, NH Division was deleted from the execution case in view of the provision provided under Order 1 Rule X(2) of CPC and the name of the present appellant was inserted as the JD requiring department. And on that day, they (appellant) sought time to make the payment within a period of 2(two) months which was also allowed by the Learned Executing Court. But thereafter on 08.08.2023, another petition was made by the appellant before the Executing Court to strike out the name of the appellant from the execution case as in the original L.A. case vide case no.Misc(LA) No.75 of 2015, GREF was not made as party but that petition was disallowed by the Learned Executing Court on the ground that on the prayer of the appellant, the name of the appellant was inserted in the execution proceeding. After that, the appellant sought redress before the High Court and the Hon'ble High Court by order dated 22.12.2023 passed in CRP No.43 of 2023 disposed of the said Civil Revision petition. For the sake of convenience, I would like to mention hereinbelow the operative portion of the order of the Hon'ble High Court which is as follows:

"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."

Thereafter, in pursuance of the direction of the Hon'ble High Court, the JD i.e. the present appellant on 25.01.2024 filed one objection before the Learned Executing Court stating to delete the name of the appellant from the execution proceeding and again to insert the name of the Executive Engineer PWD, NH Division as Judgment debtor in place of the appellant but the Executing Court disposed of the said objection on the ground that the matter was already been decided by order dated 08.08.2023 challenging which the appellant sought redress before the High Court and the High Court by order dated 22.12.2023 passed in CRP No.43 of 2023 was pleased to uphold the order of the Executing Court as there was no scope to reopen the matter.

6. In the meantime, the present appellant challenging the order dated 25.01.2024 has preferred the appeal before the High Court. Now, for the sake of convenience, I would like to refer hereinbelow the relevant provision of Section 54 of LA Act which reads as under:

"54. Appeals in proceedings before Court.- Subject to the provisions of the Code of Civil Procedure, 1908(5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions

contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLIV thereof."

From the aforesaid provision of law, it is very much clear that there is no scope to prefer any appeal against any order specifically the order dated 25.01.2024 by the appellant as the appeal may only be preferred against the judgment/award not against any particular order/orders. Since the legislative mandate is very much clear that against the order of any execution proceeding, there is no scope to prefer any appeal so I do not find any scope to entertain the present appeal preferred by the appellant before the High Court invoking Section 54 of the L.A. Act. It is necessary to mention here that the present appellant did not challenge the award passed in connection with case no.Misc(LA) No.75 of 2015 earlier. Even from the record of the Executing Court, it appears that the present appellant itself appeared before the Executing Court and was made as party and assured to meet up the decretal payment within a specified period which they failed to do so. Later on, challenged the same before the High Court which was also not allowed and the Learned Executing Court disposed of the objection on merit.

In view of the above, the appeal preferred by the appellant stands dismissed being devoid of merit as the same is not maintainable under Section 54 of the L.A. Act. The Learned Executing Court shall proceed to execute the award passed by the L.A. Judge in Misc(LA) No.75 of 2015 at an earliest convenience.

With this observation, the case is disposed of.

Send down the LCRs along with a copy of this judgment.

Pending applications, if any also stands disposed of.

JUDGE

