

GAHC010002442018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/95/2018

MD. SALIK UDDIN AHMED
S/O. LATE BASIR UDDIN AHMED, VILL. DEFOLALA, P.O. BUBRIGHAT-
788724, DISTRICT- KARIMGANJ, ASSAM.

2: MD. TAUSIF ROSUL
SON OF SIDDEQUE AHMED. RESIDENT OF VILL. NAGHARIA
P.O. BARAIGRAM-788723
DIST. KARIMGANJ
ASSAM.

3: MD. TAUHID ROSUL

SON OF SIDDEQUE AHMED. RESIDENT OF VILL. NAGHARIA
P.O. BARAIGRAM-788723
DIST. KARIMGANJ
ASSAM.

4: MD. AFRID ROSUL
SON OF SIDDEQUE AHMED. RESIDENT OF VILL. NAGHARIA
P.O. BARAIGRAM-788723
DIST. KARIMGANJ
ASSAM.

5: MD. ABDUL JABBAR

S/O. ABDUL GAFUR
RESIDENT OF VILL. KUNAGRAM
P.O. KANAIBAZAR-788724
DIST. KARIMGANJ
ASSAM.

6: MD. ABDUR RAHMAN
S/O. LATE MUJAMMIL ALI
RESIDENT OF VILL. KUNAGRAM

P.O. KANAIBAZAR-788724
DIST. KARIMGANJ
ASSAM.

7: MD. ABDUL MANNAN
S/O. LATE NAFAR ALI
RESIDENT OF VILL. KUNAGRAM
P.O. KANAIBAZAR-788724
DIST. KARIMGANJ
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, REVENUE
DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE (LAND ACQUISITION) DEPARTMENT
DISPUR
POST OFFICE GUWAHATI-781006
ASSAM.

3:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
REVENUE (LAND ACQUISITION) DEPARTMNET
DISPUR
POST OFFICE GUWAHATI-781006
ASSAM.

4:THE DISTRICT COLLECTOR AND DEPUTY COMMISSIONER
KARIMGANJ DISTRICT

P.O. KARIMGANJ-788710
DIST. KARIMGANJ
ASSAM.

5:THE ADDL. DEPUTY COMMISSIONER AND LAND ACQUISITION
COLLECTOR

OFFICE OF THE DISTRICT COLLECTOR AND DEPUTY COMMISSIONER
(LAND ACQUISITION BRANCH)
KARIMGANJ DISTRICT
P.O. KARIMGANJ-788710
DIST. KARIMGANJ
ASSAM.

6:THE LAND ACQUISITION OFFICER

OFFICE OF THE DISTRICT COLLECTOR AND DEPUTY COMMISSIONER
KARIMGANJ DISTRICT
P.O. KARIMGANJ-788710
DIST. KARIMGANJ
ASSAM

Advocate for the Petitioner : MR. N DHAR

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

27.01.2023

Heard Shri MK Choudhury, learned Senior Counsel assisted by Shri AU Ahmed, learned counsel for the petitioners. Also heard Shri A. Bhattacharjee, learned Standing Counsel, Revenue Department for the respondent nos. 1 to 3 and Ms. S. Sarma, learned State Counsel for the respondent nos. 4 to 6.

2. The writ petition was instituted in connection with a land acquisition proceeding being LA Case No. 10/2012-13 carried out in the district of Karimganj. It is the case of the petitioners that they were taken by surprise when they have come to know about a notice dated 08.12.2017 directing them to collect the land acquisition compensation with regard to the aforesaid LA case. The petitioners alleged that there has been gross violation of the Land Acquisition Act, 1894 including the requirement of publishing the award within a stipulated time as laid down in Section 11A. It is the further case of the petitioners that the representation dated 14.12.2017 submitted by them has not yet been disposed of.

3. Shri Choudhury, learned Senior Counsel for the petitioners, at the outset, however submits that the issue involved was also the issue in a connected writ petition namely, WP(C)/7067/2019 which has however been disposed of vide an order dated 13.12.2022. The learned Senior Counsel fairly submits that after going through

the records produced in that case, this Court had come to a conclusion that the basic grievance of the petitioners was not factually correct as the records contained an award which was said to have been passed within the time provided and accordingly the said writ petition WP(C)/7067/2019 was disposed of. This Court however made certain observation with regard to the rights of the petitioners for making a reference under Section 18 of the Act as apparently, the period of limitation for taking steps for initiation of such reference is long over. The relevant observations made by this Court in the earlier judgment and order dated 13.12.2022 are extracted hereinbelow:

“14. Section 18 gives the right to any person interested who has not accepted the Award to write to the collector requiring a reference to be made to the appropriate Court. For ready reference, Section 18 of the Act is extracted herein below:

18 Reference to Court. —

(1) Any person interested who has not accepted the Award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the Award is taken: Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his Award, within six weeks from the date of the Collector's Award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six

months from the date of the Collector's Award, whichever period shall first expire.

15. *"Court" has also been defined under Section 3 (d) as per which it means the Principal Civil Court of original jurisdiction.*

16. *As indicated above, limitation has been prescribed in Section 18 (2) as per which, for a person who was present or represented before the Collector at the time of making the Award, the application has to be made within 6 (six) weeks from the date of the Collector's Award and in other cases within 6 weeks from the date of receipt of notice under Section 12 (2) or within 6 months from the date of the Collector's Award which period shall first expire.*

17. *In the instant case, the notices under Section 12(2) of the Act were dated 12.08.2017 and therefore, the application for making a reference should have been made on or within 6 weeks from 12.08.2017 or 6 months from the date of the Award which Award is earlier and in both the cases, the said period however has expired. The learned Senior Counsel has submitted that since the entire acquisition was a matter of challenge in this present writ petition, the period of limitation as prescribed in Section 18 (2) of the Act may be condoned and the petitioners, if so advised be permitted to put their application before the Collector to make a reference within a period of 6 weeks from today.*

18. *Both Shri R. Borpujari, learned Standing Counsel, Revenue Department, and Ms. S. Sharma, learned State Counsel, submits that though the aforesaid proposal is not contemplated in the provisions of Section 18 of the Act, in the interest of justice, direction to that effect may be granted with however a rider that the petitioner would require to establish their right and interest over the land with proper description before the Collector and only in the event when the Collector is satisfied with such an application, the reference may be made to the Competent Court.*

19. *In view of the aforesaid facts and circumstances, while this Court does not find any merit in this writ petition, liberty is however granted to the petitioners to approach the Collector by filing a written application for consideration to make a reference under Section 18 of the Act. Since the time prescribed under Section 18 (2) of the Act has long expired, by taking into consideration the aforesaid provision, the application may be permitted to be filed within a period of 6 weeks from today. Further, the application is required to state all details of the land involved with the respective petitioners and their interest and right over the said along with supporting documents. The Collector is also required to apply his independent mind to the application so filed along with the materials to support the said application before taking a decision to make a reference to the competent Court under Section 18 of the Act."*

4. In view of the above, the present writ petition is also disposed of. It is however clarified that the aforesaid observations made in the earlier case would be applicable to this case also.

JUDGE

Comparing Assistant