

GAHC010008432023



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

Case No. : WP(C)/517/2023

SHAKIR AHMED BARBHUYAN@SAKIR AHMED BORBHUYAN AND ANR
S/O- LT. ALIUR RAHMAN BARBHUYAN, R/O- VILL- NILBAGAN, P.O.
NILIBAGAN, P.S. MUNAJHAR, DIST.- HOJAI (ASSAM), PIN- 782445

2: ABDUL KAYUM @ ABDUL QAYUM
S/O- LT. ABDUL ZABBER
R/O- VILL- NILBAGAN
P.O. NILIBAGAN
P.S. MUNAJHAR
DIST.- HOJAI (ASSAM)
PIN- 78244

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY SPECIAL COMMISSIONER AND SPL. SECRETARY TO THE GOVT.
OF ASSAM, PUBLIC WORKS (B AND NH) DEPTT., PUBLIC WORKS
BUILDING AND NH DEPT BLOCK B, GROUND FLOOR, ASSAM
SECRETARIAT, DISPUR, GHY-06

2:DISTRICT LEVEL LAND PURCHASE COMMITTEE
HOJAI
REP. BY ITS MEMBER SECRETARY (ADDL. DY. COMMISSIONER
(REVENUE))
HOJAI
ASSAM

3:DY. COMMISSIONER
HOJAI
CUM CHAIRMAN
DISTRICT LEVEL LAND PURCHASE COMMITTEE
HOJAI
ASSAM

4:CIRCLE OFFICER
DOBOKA REVENUE CIRCLE
HOJAI
ASSAM

5:THE EXECUTIVE ENGINEER
PUBLIC WORKS ROAD DEPTT.
HOJAI
ASSA

Advocate for the Petitioner : MD. M H CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 22-02-2023

Heard Mr. M.H. Choudhury, learned Senior Counsel assisted by Mr. P. Chakraborty, learned counsel for the petitioners; Mr. B. Gogoi, learned Standing Counsel, Public Works Department for the respondent nos. 1 & 5; and Mr. R. Talukdar, learned Junior Government Advocate, Assam for the respondent nos. 2, 3 & 4.

2. The State Government in the Public Works [Development A-1 Branch] Department published a notification dated 20.01.2021 whereby it has notified 'the Land acquisition through Direct Purchase by way of negotiated settlement for improvement and upgradation of State Highways and Major District Roads under Asom Mala Program and Externally Aided Projects' ['the Scheme', for short]. The said notification was published in the Assam Gazette on 22.01.2021. By the said Scheme, the State Government has adopted a process of land acquisition through direct purchase by way of negotiated settlement for improvement and up-gradation of State Highways and major district roads

under the Asom Mala Program and Externally Aided Projects and the Scheme has envisaged a number of steps for such negotiated settlement.

3. The respondent no. 4 had published a notice dated 11.02.2022 whereby it was notified that land measuring 1 Katha 14 Lessas [1K-14L], covered by Dag no. 396 & Patta no. 63 and Dag no. 396/539 & Patta no. 194, located at Village Nilbagan, Mouza – Namati, District – Hojai would be acquired under the Scheme and directed the pattadars/possessors of those parcels of land to submit their land related documents at his office on 21.02.2022. By the said Notice dated 11.02.2022, the two petitioners herein were informed along with other persons. The afore-mentioned notice was followed by another notice published in the Assamese daily newspaper, *Axomiya Pratidin* in its issue dated 30.03.2022, whereby, the pattadars/possessors including the two petitioners were informed that their parcels of land indicated therein, are proposed to be acquired for road construction under the Asom Mala from Hamren to Howraghat Tiniali by the District Level Land Purchase Committee through direct purchase by way of negotiated settlement and the pattadars/possessors had been asked to file their objections, if any, before the Chairman, District Level Land Purchase Committee, Hojai within 15 [fifteen] days from the date of publication of the notice.

4. Having come across the afore-mentioned two notices, the two petitioners along with others had submitted a Representation before the Chairman, District Level Land Purchase Committee, Hojai-cum-Deputy Commissioner, Hojai [the respondent no. 3] on 28.11.2022 with the grievance that the measurements indicated in the notice dated 30.03.2022 were not accurate and the same would require actual measurements through the concerned revenue officials. According

to the petitioners, they had submitted another Representation before the respondent no. 4 on 02.04.2022 with the grievance that the land value indicated in the notice dated 30.03.2022, at which their lands were sought to be acquired through direct purchase by way of negotiated settlement were much lesser than the actual market value. By the said Representation dated 02.04.2022, the two petitioners had sought for enhancement of the value of their parcels of lands.

5. Mr. Gogoi, learned Standing Counsel, Public Works Department and Mr. Talukdar, learned Junior Government Advocate, Assam have submitted that the Administrative District – Hojai has stood merged in the meantime, with the Administrative District – Nagaon vide a Gazette Notification ECG no. 263174/2 dated 31.10.2022 and as a result, the Administrative identity of the Deputy Commissioner, Hojai has ceased to exist. Consequently, the District Level Land Purchase Committee, Hojai has also ceased to exist.

6. Mr. Talukdar, learned Junior Government Advocate, Assam has placed a Communication bearing no. HJRA.01/2023/69 dated 17.02.2023 of the Additional Deputy Commissioner [Revenue], Hojai Sub-Division-cum-Member/Secretary, District Level Land Purchase Committee, Hojai before this Court. From the said Communication, it is noticed that the said authority has acknowledged the receipt of the Representation submitted by the petitioner on 28.11.2022 and it is mentioned that the Representation of the petitioner would be considered by the District Level Land Purchase Committee as per the provisions contained in the Scheme under the Asom Mala Program and Externally Aided Projects, published in the Assam Gazette on 22.01.2021. The Communication dated 17.02.2023 has further mentioned that with the merger of

the administrative district – Hojai with the administrative district – Nagaon, the District Level Land Purchase Committee in respect of the erstwhile Hojai district need to be re-constituted and the same would be done shortly.

7. Paragraph 4 of the Gazette Notification dated 22.11.2021 has delineated the steps to be followed in the process of land acquisition through direct purchase by way of negotiated settlement. As per Step 15, the settlement reached in the negotiation shall be recorded as Agreement through Form-B and Form-C for land owners and for interested persons other than land owners, if any, respectively. An undertaking may be signed by the land owners declaring that they will not claim for payment of higher compensation in any court of law or any other forum and shall abide by the sale agreement finalized by the DLLPC. The land owners and other interested persons have to provide their electronic transfer details through electronic transfer mode. As per Step 17, in the event of any owner refusing to sell the land or any of the owners has objected or not interested with the direct purchase through negotiation, the respective land may be acquired through land acquisition process of Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015.

8. Since the Communication dated 17.02.2023 [supra] has acknowledged the receipt of the Representation from the two petitioners and the concerned District Level Land Purchase Committee is to be re-constituted in immediate future, this Court is of the considered view that instead of keeping this writ petition pending, as agreed to by the learned counsel for the parties, the same can be disposed of with a direction to take the Representation submitted by the

petitioners on board immediately by the concerned District Level Land Purchase Committee, Hojai after its re-constitution and proceed with the matter of land acquisition through direct purchase by way of negotiated settlement in so far as the parcels of land belonging to the petitioners are concerned by following the steps mentioned in the Gazette Notification dated 22.01.2021. It is further provided that while considering the matter of measurement, fixation of land value, etc. the petitioners should be afforded due opportunity to represent their cases before the said Committee and to produce documents, etc. in support of their claims and the Committee after consideration of the factors into account in terms of the above Notification [supra] shall pass a reasoned order. It is observed that the decision taken on the Representation of the petitioners shall be communicated to the petitioners immediately thereafter. The entire process shall be completed as expeditiously as possible, within an outer limit of 6 [six] weeks after re-constitution of the concerned District Level Land Purchase Committee. In the event the petitioners are aggrieved by the decision so taken, the petitioners will be at liberty to take resort to appropriate remedy in accordance with law.

9. The petitioners shall submit a certified copy of this order at the office of the Deputy Commissioner, Nagaon.

10. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant