

GAHC010033012023



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

Case No. : WP(C)/860/2023

GIRIBALA RAY
W/O LATE RATNESWAR RAY
R/O VILL- TULUNGIA 1ST PART
MOUZA- SRIJANGRAM, P.O. NORTH SALMARA, PS. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN CODE- 783383

VERSUS

THE STATE OF ASSAM AND 5 ORS
THROUGH THE COMMISSIONER AND SECRETARY, TO THE GOVT. OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI-781006

2:THE DEPUTY COMMISSIONER

BONGAIGAON
(LAND ACQUISITION BRANCH)
P.O. BONGAIGAON

DIST. BONGAIGAON
ASSAM

PIN CODE- 783380

3:THE ADDITIONAL DEPUTY COMMISSIONER

(LAND AND ACQUISITION BRANCH) IN-CHARGE LAND ACQUISITION
OFFICER
BONGAIGAON
P.O. BONGAIGAON
DIST. BONGAIGAON

ASSAM
PIN- 783380

4:THE CIRCLE OFFICER

SRIJANGRAM REVENUE CIRCLE

SRIJANGRAM
DIST. BONGAIGAON
ASSAM
PIN CODE- 783384

5:THE NATIONAL HIGHWAY AUTHORITY OF INDIA

MINISTRY OF ROADS AND TRANSPORT
REPRESENTED BY ITS CHAIRMAN
G-5
AND 6
SECTOR 10
DWARKA
NEW DELHI-110015.

6:THE GENERAL MANAGER

NATIONAL HIGHWAY
JDCL
BONGAIGAON
P.O. BONGAIGAON

DIST. BONGAIGAON
ASSAM

PIN CODE- 78338

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : GA, ASSAM

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

ORDER

17.02.2023

Heard Shri BD Das, learned Senior Counsel assisted by Ms. R Deka, learned counsel for the petitioner as well as Ms. G Hazarika, learned Standing Counsel, Revenue Department for the respondent no. 1. Also heard Shri S Baruah, learned State Counsel, Assam for the respondent nos. 2, 3 and 4 whereas Shri C Baruah, learned Standing Counsel, NHAI appears for the respondent nos. 5 and 6.

2. Having considered the subject matter in dispute and the broad consensus arrived at in the Bar, the writ petition is taken up for disposal at the motion stage.

3. The petitioner's husband, Late Ratneswar Ray was the pattadar of a plot of land covered by Dag No. 532, Patta No. 101 of Village-Tulungia First Part under Mouza-Srijangram in the district of Bongaigaon. The said land has been claimed to be purchased by a registered sale deed in the year 1992. After the expiry of the husband of the petitioner, the aforesaid property had devolved upon her and over the said plot of land she had constructed a three storied RCC building with 15 feet wide frontage. Apart from that, there are also other zirats over the aforesaid plot of land. A construction work for the Four-lane National Highway is going on in that area for which lands have been acquired and notices were issued to the land owners, including the petitioner for acquiring 6 laches of her land. The petitioner claims that the actual acquisition is more than that and would be about 8 lechas which will also include zirats and would also result in demolition of 3 feet from her RCC three storied building. Though an assessment of compensation to the tune of Rs. 15,79,574/- has been done by the Addl. Deputy Commissioner, Bongaigaon, as per the petitioner, the said assessment is on the lower side and many head of items have been ignored, including

the damage caused to the building. The petitioner submits that under protest, she has accepted an amount of Rs. 4,98,000/- as compensation and has thereafter approached this Court for a direction for payment of fair compensation.

4. Shri BD Das, learned Senior Counsel for the petitioner submits that the assessment for the dismantling of the building structure has been done by the competent authority of Abhayapuri Municipal Board which has come to Rs. 14,29,000/- and this amount has been wholly ignored by the assessing authorities while calculating the payable compensation.

5. On the other hand, Shri C Baruah, learned Standing Counsel, National Highways submits that the acquisition is done under the aegis of the National Highways Act, 1956 (Act) which is self-contained enactment. By drawing the attention of this Court to Section 3G of the Act, more specifically sub-section (5) thereof, a provision has been made that in case, amount determined by the competent authority is not acceptable to either of the parties, the parties may file an application for determining the amount before an Arbitrator to be appointed by the Central Government. He further submits that there are other provisions regarding apportionment in Section 3H and the award of the Arbitrator itself would be subject to the provisions of the Arbitration and Conciliation act, 1996.

6. Shri Das, learned Senior Counsel, accordingly submits that being the position of law, a direction may be given relegating the petitioner to the Arbitrator who is to be appointed under the provisions of Section 3G (5) of the National Highways Act, 1956.

7. At this stage, Shri Baruah, learned Standing Counsel submits that an Arbitrator has already been appointed under the aforesaid provision of law who is the Lower Assam Commissioner.

8. In view of the above facts and circumstances, this writ petition is disposed of by giving liberty to the petitioner to approach the Arbitrator, namely, Lower Assam Commissioner regarding the matter and file all necessary applications and documents. Upon such filing, the learned Arbitrator would act in accordance with law by giving opportunity to all the affected parties.

9. The learned Arbitrator would make an endeavour to complete the proceedings and dispose of the claim expeditiously and preferably within a period of 6 months from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant