

GAHC010036452018



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

Case No. : WP(C)/1130/2018

TAHMINA BEGUM
W/O. LT. ABDAL RAHMAN, VILL. BONGAON (BALAGAON), P.O. UDIANA
VIA. RANGIA, P.S. RANGIA, DIST. KAMRUP (R), ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECRETARY OF THE MINISTRY OF ROAD TRANSPORT AND
HIGHWAYS, GOVT. OF INDIA.

2:THE PROJECT DIRECTOR

NATIONAL HIGHWAY AUTHORITY OF INDIA
HOUSE NO.1
1ST FLOOR
DILIP HUZURI PATH
NEAR BAGESWARI MANDIR
SORUMOTORIA
GHY.

3:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE DEPTT.
ASSAM SECRETARIAT
DISPUR
GHY.

4:THE DY. COMMISSIONER

KAMRUP (R)
AMINGAON

GUWAHATI

5:THE ADDL. DY. COMMISSIONER

(LAND ACQUISITION) CUM COMPETENT AUTHORITY NHA
KAMRUP (R)
AMINGAON
GUWAHAT

Linked Case : WP(C)/3435/2018

GIRISH KALITA
S/O- LT UMA RAM KALITA
R/O- VILL- DEUDAR
P.O. AND P.S. BAIHATA CHARIALI
DIST- KAMRUP (R)
ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECRETARY TO THE MINISTRY OF ROAD TRANSPORT AND
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2:THE PROJECT DIRECTOR
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H/NO. 1
1ST FLOOR
DILIP HUZURI PATH
NEAR BAGESWARI MANDIR
SORUMOTORIA
GHY-6

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE DEPTT.
ASSAM SECRETARIAT
DISPUR
GHY-6
4:THE DY. COMMISSIONER
KAMRUP (R)
AMINGAON

GHY-31

5:THE ADDL. DY. COMMISSIONER
(LAND ACQUISITION) CUM COMPETENT AUTHORITY NHA
KAMRUP (R)
AMINGAON
GHY-31

For the Petitioner (s) : Mr. U.C. Rabha. Advocate.
Mr. Satyadhar Matak, Advocate.

For the Respondent (s) :Mr. D. Nath, Sr. Govt. Advocate,
Mr. C.Baruah, SC, NHA.

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing & Judgment : 22.09.2023

JUDGMENT AND ORDER (ORAL)

Both the writ petitions are taken up for disposal by this common judgment and order taking into account that the relief sought for in both the writ petitions are the same.

2. It appears from a perusal of the pleadings in both the writ petitions that certain lands belonging to the Petitioners were acquired under the provisions of the National Highways Act, 1956 (for short 'the Act of 1956'). Pursuant to the said acquisition so carried out, an order was passed under Section 3G of the Act of 1956 by the Competent Authority.

3. The Petitioners being aggrieved had approached the Commissioner, Lower Assam Division, Guwahati (Arbitrator) under Section 3G (5) of the Act of 1956 and the learned Arbitrator had passed two Awards on 29.08.2014 in Case No. RR 61/2012 and in Case No. RR 80/2012 thereby directing the Competent Authority thereby to re-compute the compensation on the basis of the directions passed therein and pay the compensation accordingly on the basis of such assessments made. The Petitioners thereupon had approached the Competent Authority on numerous occasions but the directions contained in the Awards passed by the learned Arbitrator dated 29.08.2014 were not complied with for which both the writ petitions were preferred by the Petitioners seeking a direction upon the Respondents to expedite the matter for payment of compensation in terms with the direction specified in the orders dated 29.08.2014 passed in Case No. RR 80/2012 (W.P.(C) No. 3435/2018) and in Case No. RR 61/2012 (W.P.(C) No. 1130/2018).

4. This Court vide respective orders issued notice in the year 2018. It is seen from the records that on 25.08.2023 when the matter was listed, this Court directed the Competent Authority who is the Additional Deputy Commissioner, Kamrup (Rural) to place before this Court by way of an affidavit the computation pursuant to the Award dated 29.08.2014. However, when the matter was listed on 28.08.2023, the said affidavit was not filed by the Competent

Authority. This Court duly observed in the order dated 28.08.2023 that the Awards so passed by the learned Arbitrator on 28.08.2014 in Case No. RR 61/2012 and in Case No. RR 80/2012 were not put to challenge by the NHAI and the delay in carrying out the computation in terms with the Award dated 29.08.2014 would be pre-judicial to the NHAI as it would lead to accruing of interest on the enhanced amount. Under such circumstances, the Competent Authority i.e. the Addl. Deputy Commissioner, Kamrup (Rural) was directed to place before this Court by way of an affidavit the computation pursuant to the Awards dated 29.08.2014 and the matter was directed to be listed again on 08.09.2023.

5. The records further reveal that on 08.09.2023 when the matter was listed, the counsel representing the Competent Authority gave a lame excuse for not being able to comply with the directions passed by the learned Arbitrator through an affidavit in W.P.(C) No. 3435/2018. However, in W.P.(C) No. 1130/2018, the Competent Authority did not even care to file an affidavit. Under such circumstances, this Court gave an additional opportunity to the Additional Deputy Commissioner, Kamrup(Rural) to place the computation arrived at on the basis of the Awards before this Court on the next date i.e. today.

6. The records reveals that the Competent Authority i.e. the Additional Deputy Commissioner, Kamrup (Rural) had filed an affidavit

in W.P.(C) No. 1130/2018. In the said affidavit so filed, at Paragraph No. 3 the Competent Authority stated that the compensation amount in respect to the Petitioners in W.P.(C) No. 1130/2018 and W.P.(C) No. 3435/2018 were duly computed by the Competent Authority and the statement of computation of the compensation amount dated 14.09.2023 as per the Award of the Arbitrator dated 29.08.2014 was sent to the Project Director, NHAI, PIU, Guwahati vide the Communication dated 14.9.2023 directing them to make the funds available for necessary action for release of the said amount. In the said affidavit, the Communication so issued to the Project Director, NHAI, PIU, Guwahati was enclosed as Annexure-A and in Annexure-B the computation so carried out pursuant to the Awards passed by the learned Arbitrator on 29.08.2014 in respect to all the claimants i.e. the Petitioners herein in Case No. RR 80/22012 and in Case No. RR 61/2012 have been duly mentioned.

7. This Court further finds it relevant to take note of that as the Competent Authority have now made the computation on the basis of the Awards passed by the learned Arbitrator, as could be seen from Annexure-B to the affidavit filed in W.P.(C) No. 1130/2018, a statutory duty is therefore imposed upon the Central Government and in the instant case, the National Highway Authority of India in terms with Section 3H of the Act of 1956 to deposit the said amount with the Competent Authority so that the Competent Authority would be in a

position to disburse the said amounts.

8. Mr. C. Baruah, the learned counsel appearing on behalf of the NHA I submits that 6(six) weeks' time may be granted to the NHA I to deposit the said amount in terms with the computation as reflected in Annexure- B to the affidavit filed in W.P.(C) No. 1130/2018 by the Competent Authority.

9. The Competent Authority i.e. the Addl. Deputy Commissioner is present in the Court pursuant to the order passed by this Court on 08.09.2023. The Addl. Deputy Commissioner submits that upon receipt of the said amount from the NHA I authority, the same shall be disbursed to the Petitioner within 15 days thereupon.

10. Taking into account the above statements made by the learned counsel for the NHA I authority as well as the Competent Authority herself who is present in person, this Court therefore disposes of the writ petitions directing the NHA I authority to deposit the amount as reflected in the computation enclosed as Annexure-B to the affidavit filed by the Competent Authority in W.P.(C) No. 1130/2018 on or before 8th of November, 2023 and thereupon the Competent Authority shall disburse the said amount to the Petitioners after carrying out necessary identification and on submission of the required papers.

11. The personal appearance of Ms. Sujata Gogoi, the Additional Deputy Commissioner, Kamrup(Rural) who is also the Competent

Authority is dispensed herewith.

12. With the above observations and directions, the petitions stands disposed.

13. A copy of the instant judgment be served by the Registry upon Mr. C. Baruah, the learned counsel for NHA I and to Mr. D. Nath, the learned Senior Government Advocate for due compliance.

JUDGE

Comparing Assistant