

GAHC010041662022



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

Case No. : WP(C)/1584/2022

TOLARAM BAFNA ARTIFICIAL LIMB AND CALIPER CENTRE
A SOCIETY REGISTERED UNDER THE SOCIETIES REGISTRATION ACT,
1860, HAVING ITS OFFICE AT BAFNA COMPLEX, AMINGAON, GUWAHATI,
KAMRUP(R), ASSAM, REP. BY ITS MANAGING TRUSTEE SRI SUBHKARAN
JAIN ALIAS SUBHKARAM BAFNA.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY ITS SECRETARY, LAND AND REVENUE DEPARTMENT,
DISPUR, ASSAM

2:THE DEPUTY COMMISSIONER
KAMRUP (R)
AMINGAON
ASSAM-781031.

3:THE ADDITIONAL DEPUTY COMMISSIONER
KAMRUP(R)
AMINGAON
ASSAM-781031.

4:THE CIRCLE OFFICER
NORTH GUWAHATI REVENUE CIRCLE
INDOOR STADIUM ROAD
KAMRUP(R)
AMINGAON
ASSAM-781039.

5:TILEN DAS
S/O- SRI LAGHANU DAS
R/O- GAURIPUR

MULAKHATAL
NORTH GUWAHATI
P.S. KAMALPUR
KAMRUP(R)
ASSA

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

11.05.2023

Heard Mr. G.N. Sahewalla, learned Senior Counsel for the petitioner assisted by Ms. K. Bhattacharya. Also heard Mr. A.C. Sarma, learned Senior Counsel for the respondent No. 5 assisted by Mr. G. Bharadwaj, Mr. M. Chetia, learned counsel for the respondent Nos. 2, 3 & 4 and Ms. G. Hazarika, learned counsel for the respondent No. 1.

2. The petitioner's case is that he is the owner of land measuring 1 Bigha – 1 Katha – 4 Lechas covered by Dag No. 187 of K.P Patta No. 202, Village-Abhaypur, Mouza-Sila Senduri Ghopa under North Guwahati Revenue Circle of Sub-Division-Kamrup Sadar, District-Kamrup.

3. The petitioner's counsel submits that the land of the petitioner has been acquired under the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation And Resettlement Act, 2013 (herein after referred to as the "2013 Act"). He submits that the respondent No. 5, who is the illegal occupier of the petitioner's land is claiming Zirat compensation which should be given to the petitioner. He submits that if there is a dispute with regard to the apportionment of the Zirat compensation or any part thereof, the Collector has to refer the dispute to the Authority in terms of Section 76 of the 2013 Act. The counsel for the petitioner accordingly prays that the Collector may be directed to refer the dispute between the petitioner and the respondent No. 5 regarding the Zirat compensation, to the Authority in terms of Section 76 read with Section 51 of the 2013 Act.

4. Mr. A.C. Sarma, learned Senior Counsel for the respondent No. 5 submits that he has got no objection to the prayer made by the petitioner's counsel. He however submits that in terms of the judgment of this Court in ***Arun Ch. Baruah & Anr v. State of Assam & Ors.*** reported in ***2021 4 GLT 974***, the Zirat compensation should be paid to the occupier of the land, i.e. the respondent No. 5. He also submits that the respondent No. 5 is the bonafide occupier of the land and the RCC building, which has been disputed by the petitioner's counsel.

5. The counsels for the State respondents submit that the matter may be referred to the Authority in terms of Section 76 read with Section 51 of the 2013

Act.

6. In view of the consent of the parties, the letter dated 12.01.2022, issued by the Addl. Deputy Commissioner, Kamrup, Amingaon, directing the Circle Officer, North Guwahati Revenue Circle to make a detailed report of the Zirat compensation, payable to either the petitioner or the respondent No. 5, should not be acted upon by the Circle Officer or the respondent Nos. 2 & 3. The same may however be sent to the Authority constituted under Section 51 of the 2013 Act. The respondent No. 2 shall accordingly refer the dispute between the petitioner and the respondent No. 5 to the Authority constituted under Section 51 of the 2013 Act.

7. The Notification No. RLA.300/2013/Pt.II/176 dated 27.05.2020 issued by the Addl. Chief Secretary to the Govt. of Assam, Revenue & D.M. Department, shows that the Authority that has been constituted to decide disputes under Section 76 of the 2013 Act. The contents of the Notification dated 27.05.2020, issued by the Addl. Chief Secretary to the Govt. of Assam, Revenue & D.M. Department is reproduced below:

“GOVT. OF ASSAM

REVENUE & DISASTER MANAGEMENT (LR) DEPARTMENT

ASSAM SECRETARIAT (CIVIL), DISPUR

GUWAHATI-6

No.RLA.300/2013/Pt-II/176

Dated Dispur, the 27th May, 2020

ORDERS BY THE GOVERNOR

NOTIFICATION

In exercise of the powers conferred under section 51(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 read with Rule 45(1) of the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 (framed under section 109 of the said Act), the Governor of Assam is pleased to declare that the Courts of the District & Sessions Judges of the Districts of Kamrup (M), Nagaon, Sonitpur, Jorhat and Cachar shall continue to act as the Land Acquisition, Rehabilitation and Resettlement Authority to exercise jurisdiction, powers and authority conferred on it by or under the Act.

The above Courts will act as the LARR Authority for the respective Revenue Divisions viz. Lower Assam, Central Assam, North Assam, Upper Assam and Barak Valley Divisions till further order.

This Notification is issued with the consent of the Hon'ble Gauhati High Court conveyed vide their letter No.HC.VII-30/2017/1866/A dated 29-04-2020.

Sd/- Jishnu Barua, IAS

Addl. Chief Secretary to the Govt. of Assam

Revenue & D.M. Department"

8. The Authority, on receipt of the reference from the respondent No. 2, with regard to the dispute between the parties, shall decide the said issue at the earliest and preferably within a period of 1 (one) year from the date of receipt of the reference.

9. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant