

GAHC010045592023



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

Case No. : I.A.(Civil)/568/2023
In WP(C) No. 637/2023

NIROMAI BORA AND 9 ORS
W/O- LT. BASU BORA,
VILL. HOWRAGHAT TINIALI,
P.O.- KACHUPUKHURI,
P.S.- BAKALIA,
KARBI ANGLONG, ASSAM,
PIN- 782482.

2: SHEWALI BRAHMA
W/O- NIREN RAVA
VIL- MIRDU PATHAR
P.O.- KACHUPUKHURI
P.S.- HOWRAGHAT
KARBI ANGLONG
ASSAM
PIN- 782482.

3: PADMINI NARZARY
D/O- AKAN NARZARY

VILL- MIRDOK PATHAR

P.O.- KACHUPUKHURI

P.S.- HOWRAGHAT

KARBI ANGLONG
ASSAM

PIN- 782482.

4: BOLIN BASUMATARY
S/O- LT. HOLIRAM BASUMATARY

VILL- KACHUPUKHURI

P.O.- KACHUPUKHURI

P.S.- HOWRAGHAT

KARBI ANGLONG
ASSAM

PIN- 782482.

5: SONTOSHI NARZARY
W/O- AKAN NARZARY

VILL- K CHUPUKHURI GAON

P.O.- KACHUPUKHURI

P.S.- BAKALIA

KARBI ANGLONG
ASSAM

PIN- 782482.

6: KAKULI UZIN
D/O- BULU BORA UZIN

VILL.- HOWRAGHAT TINIALI

P.O.- KACHUPUKHURI

P.S.- HOWRAGHAT

KARBI ANGLONG
ASSAM

PIN- 782482.

7: REKHA BASUMATARY
W/O- KOMAL BASUMATARY

VILL. KUSUPUKARI

P.O. AND P.S. BAKALIA

KARBI ANGLONG

ASSAM

PIN- 782482.

8: JATINDRA NARZARY
S/O LATE RAMESH NARZARY

VILL. MIRDU PATHAR

P.O.- KACHUPUKHURI

P.S.- HOWRAGHAT

KARBI ANGLONG
ASSAM

PIN- 782482.

9: BHULA SAHA
S/O- RADHIKA MUHON SAHA

VILL. KUSUPHUKURI

P.O.- BAKALIA GHAT
P.O.- BAKALIA

KARBI ANGLONG
ASSAM

PIN- 782482.

10: SATYAJIT DEB
S/O SADHAN CH. DEB

VILL.- HOWRAGHAT TINIALI

P.O.- KACHUPUKHURI

P.S.- HOWRAGHAT

KARBI ANGLONG
ASSAM

PIN- 782482

VERSUS

THE UNION OF INDIA AND 5 ORS

REP. BY THE SECRETARY TO THE MINISTRY OF ROAD TRANSPORT AND
HIGHWAYS, GOVT. OF INDIA, NEW DELHI, PIN- 110001.

2:THE STATE OF ASSAM
REP. BY ITS SECRETARY TO HE DEPARTMENT OF HILL AREAS
TO THE GOV. OF ASSAM

DISPUR
GUWAHATI

PIN- 781006.

3:KARBI ANGLONG AUTONOMOUS COUNCIL
REP. BY THE PRINCIPAL SECRETARY OF KARBI ANGLONG AUTONOMOUS
COUNCIL

DIPHU
KARBI ANGLONG

PIN- 782640.

4:THE PROJECT MONITORING UNIT- DIPHU

NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD. (NHIDCL)

PWD(IB)
PWD COLONY

LUMDING ROAD
DIPHU

KARBI ANGLONG
PIN- 782460.

5:THE COMPETENT AUTHORITY FOR LAND ACQUISITION JOINT
SECRETARY (REVENUE)
KARBI ANGLONG AUTONOMOUS COUNCIL

DIPHU
KARBI ANGLONG

PIN- 782441.

6:THE ASSISTANT REVENUE OFFICER
KARBI ANGLONG AUTONOMOUS COUNCIL
PHULONI CIRCLE
P.S.- HAWRAGHAT

P.O. PHULONI
KARBI ANGLONG
PIN- 782441

Advocate for the Petitioner : MR. M SARANIA
Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04-04-2023

Heard Ms. M. Devi, learned counsel for the applicants/petitioners, who by means of this Interlocutory application has prayed for renewal/restoration of an interim order dated 08.02.2023 passed in the connected writ petition i.e. WP(C) No. 637/2023.

Shri N. Goswami, learned State Counsel as well as Ms. V. L. Singh, learned Standing Counsel, NHIDCL are present.

It is the case of the applicants, who are 10 in numbers that the connected writ petition i.e. WP(C) No. 637/2023 has been filed against the action of the respondent authorities in going ahead with the acquisition process of land for construction/widening of the National Highway-29 which is a part of the Scheme "Bharat Mala". The applicants case is that they had their residences over their respective plots of land and the amount paid to them is inadequate and therefore without coming to a fair determination of the compensation, the petitioners should neither be displaced from their respective lands nor any damage be caused to their residences.

This Court vide order dated 08.02.2023 had passed an interim order that no coercive action be taken to evict the applicants (petitioners) from the land under their possession. This Court has also made an observation that the interim direction would be reconsidered on the next date after obtaining of instructions which included the issue as to whether the Award was actually passed. On the next date, this Court was

informed that the Award was indeed passed and the applicants had received the compensation. On that basis, the interim order was vacated. It is the case of the applicants that if they are displaced without determining a fair compensation, the legal injury would be caused to them.

Ms. M. Devi, the learned counsel for the petitioner fairly submits that it is not in dispute that the applicants have received amounts in the name of compensation which however is wholly inadequate. It is further submitted that though an alternative remedy is available, some protection may be granted till the compensation is fairly determined.

The learned counsel for the applicants has placed reliance upon an order dated 29.12.2021 passed by this Court in WP(C) No. 7303/2021.

On the other hand, Shri J. Chutia, learned Standing Counsel, KAAC submits that except for applicants Nos. 6, 9 and 10, the rest of the applicants have already moved from the location in question. So far as the other applicants are concerned, there has been partial removal of the structures standing there. He further submits that the issue of sufficiency/adequacy of compensation cannot be related to the issue of displacement. He submits that the issue is only with the adequacy of the compensation which would be determined by following the mechanism/process prescribed in the statute itself.

It is otherwise submitted that a proceeding of acquisition of this nature cannot be challenged unless a party is able to *prima facie* demonstrate violation of the statute as the proceeding has been initiated for the interest of public service.

After hearing the parties and on perusal of the records, this Court is of the view that since an alternative remedy in the form of Arbitration under Section 3G(5) of the National Highways Act, 1956 is provided for determining the issue of compensation, this Court may not be the appropriate forum for adjudication of a dispute of this nature.

So far as the prayer for renewal of the interim order is concerned, the interim

order was passed on the sole consideration that the Award was not passed and in fact it is admitted by the parties that the Award has been passed and the only grievance is with regard to the adequacy/sufficiency of the Award for which the parties are required to invoke the provisions of Section 3 G(5) of the Act in question. However, this Court has also noticed that in the order dated 29.12.2021 passed in WP(C) No. 7303/2021 which has been relied upon by the petitioner, no interim order as such was passed and it was only provided that till a period of 15 days, no demolition be taken only to facilitate the petitioners in that case to approach the competent authority for land acquisition.

In the interest of justice, while the prayers of the applicants cannot be acceded to, it is provided that the applicants are at liberty to approach the Arbitrator under the aforesaid Act of 1956 within 21.04.2023. To facilitate the applicants to make such approach, no coercive action be taken till 21.04.2023 against the applicants.

IA stands disposed of.

JUDGE

Comparing Assistant