

GAHC010049842022



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

Case No. : WP(C)/1864/2022

SAFIQUR RAHMAN TALUKDAR AND 6 ORS
S/O- LATE MUBESAR ALI TALUKDAR, VILL.- NAHARGAON, P.O. AND P.S.
DOBOKA, DIST. HOJAI, ASSAM, PIN- 782440.

2: CHIDDEKHA BEGUM
D/O- LATE MUBESAR ALI TALUKDAR
VILL.- NAHARGAON
P.O. AND P.S. DOBOKA
DIST. HOJAI
ASSAM
PIN- 782440.

3: MUSLIMA BEGUM
D/O- LATE MUBESAR ALI TALUKDAR
VILL.- NAHARGAON
P.O. AND P.S. DOBOKA
DIST. HOJAI
ASSAM
PIN- 782440.

4: AKLIMA BEGUM
D/O- LATE MUBESAR ALI TALUKDAR
VILL.- NAHARGAON
P.O. AND P.S. DOBOKA
DIST. HOJAI
ASSAM
PIN- 782440.

5: FATIMA BEGUM
D/O- LATE MUBESAR ALI TALUKDAR
VILL.- NAHARGAON
P.O. AND P.S. DOBOKA
DIST. HOJAI
ASSAM, PIN- 782440.

6: JUBEDA BEGUM
D/O- LATE MUBESAR ALI TALUKDAR
VILL.- NAHARGAON
P.O. AND P.S. DOBOKA
DIST. HOJAI
ASSAM
PIN- 782440.

7: KHALILUR RAHMAN
D/O- LATE MUBESAR ALI TALUKDAR
VILL.- NAHARGAON
P.O. AND P.S. DOBOKA
DIST. HOJAI
ASSAM
PIN- 782440

VERSUS

THE STATE OF ASSAM AND 7 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, IRRIGATION DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE CHIEF ENGINEER
IRRIGATION
ASSAM
CHANDMARI
GUWAHATI-3.

3:THE DEPUTY COMMISSIONER
NAGAON
DIST. NAGAON
ASSAM
PIN- 782001.

4:THE DEPUTY COMMISSIONER
HOJAI
SANKARDEVNAGAR
DIST.- HOJAI
ASSAM
PIN- 782435.

5:THE EXECUTIVE ENGINEER
NAGAON DIVISION (IRRIGATION)
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001.

6:THE EXECUTIVE ENGINEER
HOJAI DIVISION (IRRIGATION)
DIST. HOJAI
ASSAM
PIN- 782435.

7:THE ASSTT. EXECUTIVE ENGINEER
JAMUNAMUKH
SUB-DIVISION (IRRIGATION)
DOBOKA TOWN
WARD NO. 10
DIST.- HOJAI
ASSAM
PIN- 782440.

8:THE CIRCLE OFFICER
HOJAI REVENUE CIRCLE
DIST.- HOJAI
ASSAM
PIN- 782435

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

14-03-2023

Heard Shri N. Islam, learned counsel for the petitioners. Also heard Shri N. Upadhyay, learned counsel for the Irrigation Department whereas the State respondents are represented by Shri R. Talukdar, the learned Government Advocate.

The petitioners who are 7 in numbers claim to be owners/patta holders of 3 Bighas 4 Kathas 18 lechas of land in village Nahargaon in the district of Hojai appertaining to Kisamat patta No. 151, dag No. 18, 59 and 60. It is the case of the petitioners that in the year 1965, the aforesaid land was acquired by the respondents for setting up of an office for Irrigation project. The petitioners contend that assurance

has made for payment of due compensation, upon which the land was handed over to the Department. It is the case of the petitioner that till now, no compensation has been paid.

Shri Islam, the learned counsel for the petitioners submits that due process of law was not followed while acquiring the land.

The prayer made in the writ petition reads as follows:-

“Under the above facts and circumstances it is humbly prayed that your Lordships would be pleased to admit this application, call for the records of the case and Issue Rule nisi upon the respondents as to why a Writ in the nature of Certiorari or of Mandamus, as prayed for, shall not be issued commanding the respondents to vacate the valuable land belonged to the petitioners which is under illegal occupation of the respondent No. 7 or to pay adequate compensation if the land is required for public purpose and after hearing the parties and on perusal of records make the Rule absolute and/or pass such other or further order(s) as Your Lordships may deem fit and proper.”

Perusal of the averments and the prayer would make it clear that the relief pertains to vacating the plot of land or payment of compensation. A perusal of the averments would show that no particulars of any acquisition proceedings have been even mentioned.

What intrigues this Court is the inordinate delay from 1965 till the year 2023 to approach this Court. Responding to the same, Shri Islam has submitted that representations were filed in the year 1985, 1995, 2016 and 2022.

It is the settled law that mere filing of representation without any acknowledgment shall not extend the period of limitation and in any case, cannot be taken as a materials to suggest due diligence of the petitioners.

The instant case clearly appears to be one where the petitioners have acted without any due diligence and rather it reflects absolute negligence. This Court exercising powers under Article 226 of the Constitution of India is the Court of equity wherein the conduct of parties is also required to be examined. In the instant case, apart from the fact of inordinate delay, no discernible materials appear from the writ petition which entails the petitioners for entertaining the disputes sought to be projected.

Shri Islam has placed before this Court a judgment of the Hon'ble Supreme Court dated 06.04.2022 passed in SLP No. 1320/2020. The facts of the case therein are entirely different whereas in the instant case being dismissal is on account of lack of due diligence and inordinate delay. In the opinion of this Court the aforesaid decisions will not come to the aid of the petitioners.

The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant