

GAHC010057742023



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

Case No. : WP(C)/1461/2023

CHANDRA KANTA BORSAIKIA AND 20 ORS.

S/O- BISWANATH BORSAIKIA, R/O- VILL- CHENGELI PATHAR, JIADHAL
CHARIALI, P.O. CHENGELI PATHAR, P.S. AND DIST.- DHEMAJI, PIN-787057,
ASSAM

2: DURNA KONWAR

S/O- LATE SASHIDHAR KONWAR
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

3: NAREN GOGOI

S/O- LATE LEKHAN GOGOI
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

4: RANJAN GOGOI

S/O- LATE TULAN GOGOI
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

5: RANTU GOGOI

S/O- LATE TULAN GOGOI
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI

PIN- 787057
ASSAM

6: KARUNA BORGOHAIN
S/O- BULAN BORGOHAIN
R/O- VILL- KACHAITING NO. 1
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

7: REKHAMONI BORGOHAIN
W/O- GAGAN BORGOHAIN
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

8: TARUN LECHUDHAR
S/O- LATE LECHUDHAR BHARDHARA
R/O- VILL- KACHAITING NO.2
P.O. KACHAITING
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

9: DIPANKAR BORSAIKIA
S/O- BISWANATH BORSAIKIA
R/O- VILL- CHENGELIPATHER
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

10: KHAGEN BORSAIKIA
S/O- DHIREN BORSAIKIA
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

11: SARBESWAR BARSIAKIA
S/O- BISHTURAM BARSIAKIA
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI

PIN- 787057
ASSAM

12: SABITRI SONOWAL
W/O- TITHESWAR SONOWAL
R/O- VILL- CHENGELIPATHER
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

13: SONATI SONOWAL
D/O- MAHENDRA SONOWAL
R/O- VILL- CHENGELIPATHER
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

14: KUMUD BARSAIKIA
S/O- HRIDAYANANDA BARSAIKIA
R/O- VILL- HATIGARH DHUNAGURI
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

15: SAILEN SONOWAL
S/O- BHUBAN SONOWAL
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

16: DEBA BARSAIKIA
S/O- MOHAN BARSAIKIA
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

17: TILENDRA BORSAIKIA
S/O- TARASON BORSAIKIA
R/O- VILL- HATIGARH DHUNAGURI
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

18: LOHIT GOGOI
S/O- LATE LEKHAN GOGOI
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

19: SHIBA BARSAIKIA
S/O- DHIREN BARSAIKIA
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

20: DIPALI GOGOI
W/O- DEBAKANTA GOGOI
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSAM

21: KAMALPRABHA BARSAIKIA
D/O- BHOGESWAR BARSAIKIA
R/O- VILL- HATIGARH
P.O. HATIGARH
P.S. AND DIST.- DHEMAJI
PIN- 787057
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE AND
DISASTER MANAGEMENT DEPTT., DISPUR, GUWAHATI- 781006, KAMRUP
(M), ASSAM

2:THE DEPUTY COMMISSIONER
DHEMAJI
DISTRICT- DHEMAJI
PIN- 787057
ASSAM

3:THE CHAIRMAN
DISTRICT LAND ADVISORY COMMITTEE

DHEMAJI
THE OFFICE OF THE DEPUTY COMMISSIONER OFFICE
DHEMAJI
DISTRICT- DHEMAJI
PIN- 787057
ASSAM

4:THE CIRCLE OFFICER
DHEMAJI REVENUE CIRCLE
DISTRICT DHEMAJI
PIN- 787057
ASSA

Advocate for the Petitioner : MR. N N B CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 07-08-2023

07-08-2023

Heard Mr. N.N.B. Choudhury, learned counsel for the writ petitioners. Also heard Ms. G. Hazarika, learned standing counsel, Revenue & DM Department, Assam appearing for the respondent No. 1 and Mr. S. Baruah, learned Govt. Advocate, Assam appearing for the respondent Nos. 2 to 4.

The twenty-one writ petitioners in this petition claim to be the residents of Dhemaji district. As per the case projected in this writ petition, they were cultivating different plots of agricultural land under their possession so as to eke out a living. According to the petitioners the plots of land under occupation of the petitioners were acquired by the district administration for construction of Sports Stadium complex in the district of

Dhemaji.

Mr. Choudhury submits that even if the land was required for any public purpose, even then, the petitioners were entitled to fair compensation under the Right to Fair Compensation and Transparency in Land Acquisition Rules and Resettlement Act, 2013. But no such compensation has been paid to them nor have the petitioners be allotted any alternative plot of land.

The learned counsel for the petitioners has submitted that the respondents are duty bound to pay fair compensation to the petitioners under the provisions of the Act of 2013 or to provide them alternative land in the vicinity, but the respondents have failed to take any such action in the matter, notwithstanding the representations submitted by the petitioners on several occasions including on 11-01-2023 and 07-02-2023. Mr. Choudhury has, therefore, prayed for a direction upon the respondents to redress the grievance of the petitioners.

Ms. Hazarika, learned standing counsel, Revenue and DM Department, Assam, on the other hand, submits that if the petitioners are erosion affected persons, then they would be entitled to apply for allotment of land under the "Rehabilitation Policy for Erosion affected families of Assam, 2020". Therefore, the grievance of the petitioners will be looked into if a proper application is filed. However, the learned departmental counsel has submitted that they do not have any instruction on the allegations made in the writ petition.

If the land occupied by the petitioners have been acquired by the district

administration for any public purpose then they may be entitled to fair compensation. This Court is, therefore, of the opinion that the Deputy Commissioner of the district must be directed to examine the claims of the petitioners on the basis of representations submitted by them and take appropriate steps as may be warranted under the law for redressal of the grievance of the petitioners.

The learned departmental counsel have also agreed to such a recourse.

In view of the above, this writ petition stands disposed of by granting 04 weeks time to the petitioners to submit fresh representations before the respondent No. 2, i.e. the Deputy Commissioner, Dhemaji along with supporting documents, establishing their claim over the land.

If such individual representations are filed within 04 weeks from today by enclosing a certified copy of this order, the matter be examined and the respondent No. 2 may take appropriate measures, as may be warranted under the law, for redressal of the grievance of the petitioners.

The aforesaid exercise be carried out and completed as expeditiously as possible, but not later than 06 months from the date of receipt of individual representations of the petitioners, in terms of the order passed by this Court.

With the above observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant