

GAHC010113642021



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

Case No. : WP(C)/4402/2021

MONTU RONGPI AND 8 ORS.
S/O LATE BIJOY RONGPI,
VILL. DESOI TERON,
P.O. PHULONI AND P.S. HAWRAGHAT,
KARBI ANGLONG, ASSAM, PIN 782481

2: SRI HABEPO RONGPI
S/O LATE BIJOY RONGPI

VILL. DESOI TERON

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

3: SMT BASAPI TIMUNGPI
W/O JOYSING RONGPI

VILL.- PHULONI BAZAR

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

4: MAIKON TIMUNGPI
W/O LT. HEM CH. BASUMATARY

VILL.- PHULONI BAZAR

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

5: SRI KHOYASING TERANG
S/O LATE DEHIRAM TERANG

VILL.- KURNA BEY

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

6: SRI KHOYASING BEY
S/O LATE LANGHIN BEY

VILL.- PANIGAON

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

7: SMT KAJEK TOKBIPI
W/O MUKHIM LEKTHE

VILL.-KANIA INGTI

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

8: SRI SAM SING HANSE
S/O PHUCHIM HANSE

VILL. LONGKI HANSE ARONG

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782441

9: SRI PUARAM SWARGIARY
PRESIDENT OF SIMALU ATI L.P. SCHOOL
S/O LATE SIVAT SWARGIARY

VILL.- SIMALUATI

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 78248

VERSUS

THE UNION OF INDIA AND 18 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS.
NEW DELHI- 110001

2:THE STATE OF ASSAM
REPRESENT BY ITS SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF HILL AREAS
DISPUR. GUWAHATI-781006

3:THE NATIONAL HIGHWAY AUTHORITY OF INDIA
(A PUBLIC SECTOR UNDERTAKING BELONGING TO GOVT. OF INDIA)
REP. BY ITS CHAIRMAN
OFFICE AT 5 AND 6 SECTOR 10
DWARKA
NEW DELHI
PIN- 110001

4:THE GENERAL MANAGER (PROJECT)
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
BRANCH OFFICE- DIMAPUR
NAGALAND
INDIA
PIN- 782460

5:THE CHIEF EXECUTIVE MEMBER
KARBI ANGLONG AUTONOMOUS COUNCIL DIPHU
KARBI ANGLONG
PIN- 782460

6:THE EXECUTIVE MEMBER
DEPARTMENT OF REVENUE

KARBI ANGLONG AUTONOMOUS COUNCIL DIPHU
KARBI ANGLONG
PIN- 782460

7:THE PRINCIPAL SECRETARY TO THE KARBI ANGLONG AUTONOMOUS
COUNCIL
DIPHU
KARBI ANGLONG
PIN- 782460

8:THE COMPETENT AUTHORITY FOR LAND ACQUISITION CUM JOINT
SECRETARY (REVENUE)

KARBI ANGLONG AUTONOMOUS COUNCIL DIPHU
KARBI ANGLONG
PIN- 782460

9:THE ASSTT. SETTLEMENT OFFICER
PHULONI CIRCLE
KARBI ANGLONG AUTONOMOUS COUNCIL DIPHU
KARBI ANGLONG
PIN- 782481

10:THE ASSISTANT REVENUE OFFICER
KARBI ANGLONG AUTONOMOUS COUNCIL
PHULONI CIRCLE
DIPHU
KARBI ANGLONG
PIN- 782481

11:SRI SAMUEL HANSE
S/O PRODIP HANSE
VILL. CHANG CHAKI (BORSUNG KARBI GOAN)
PO AND PS. KAMPUR
DIST. NAGON
ASSAM. PIN- 782426

12:SMT KANCHON KROPI
W/O KAMAL HANSE
VILL. CHANG CHAKI (BORSUNG KARBI GOAN)
PO AND PS. KAMPUR
DIST. NAGON
ASSAM. PIN- 782426

13:SMT JUNTI HANSEPI
W/O SUNIL ENGJAI
R/O.- DIPHU TOWN
WARD NO. 7

NEAR RENGBONGHOM H. S. SCHOOL
PO AND PS.- DIPHU

KARBI ANGLONG
ASSAM PIN- 782460

14:SRI CHINGTHONG HANSE
S/O PRABIN HANSE
VILL. LONGKI HANSE ARONG

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN-782481

15:SMT LOKHIMAI TERONPI
W/O PRABIN HANSE
VILL. LONGKI HANSE ARONG

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

16:SMT MONISHA TERONPI
D/O CHONDROSING TERON
VILL. MIJU TERON ARONG

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

17:SRI KANGBURA KILLING
S/O BURA KILLING
VILL. MIJU TERON ARONG

P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

18:SRI BIDYASING RONGPI
S/O LT. PISO RONGPI

VILL - CHOMANG RONGPHAR ARONG
P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 782481

19:SRI MONGOL HANSE
S/O LATE KANIYA HANSE
VILL - LONGKI HANSE ARONG
P.O.- PHULONI AND P.S.- HAWRAGHAT

KARBI ANGLONG
ASSAM
PIN- 78248

For the Petitioner(s)	: Mr. M. Sarania, Advocate
For the Respondent(s)	: Mr. J. Chutia, Standing Counsel : Mr. C. Baruah, Standing Counsel : Mrs. V. L. Singh, SC, NHIDCL

Date of Hearing : 20.11.2023

Date of Judgment : 20.11.2023

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

1. The instant writ petition has been filed by 9 Petitioners seeking the following reliefs :

- (i) To direct the de novo survey and investigation of the land of the petitioners/landowners as mandated under the NH Act, 1956;
- (ii) To publish corrigendum Notifications under section 3A and 3D of the National Highways Act, 1956, for building four-lane of NH 29 (Km 65+923 to Km 80+930) in Karbi Anglong district, Assam, with

the correct Dag Nos., Patta Nos., area to be acquired, nature/type of land and names of petitioners/genuine landowners after thorough verification of the land records;

(iii) To direct the CALA to announce the Award of compensation dated 10.08.2020 under the relevant provisions of the National Highway Act, 1956, for construction four-lane of NH 29 from km. 66.000 to Km. 81.000 (Design chainage 65.923 to Chainage 80.930) of Dokmoka-Loring Thepi section (Section-3);

(iv) To direct the Respondent CALA to delete all the fictitious beneficiaries, including private respondents Nos. 11 to 19, illegally interpolated in the list of beneficiaries under notification 3D of the NH Act, 1956 and to recover the amount of compensation illegally paid to such persons, and;

(v) To direct the initiation of investigation by the C.I.D of Assam Police against the illegally interpolated beneficiaries, the CALA, the erring officials of the Revenue department, KAAC and NHIDCL, for malafide intention and conspiracy to siphon off huge public funds meant for payment of compensation to the genuine beneficiaries/landowners and/or

(vi) After return of the Rule and hearing of the parties, being further pleased to make the Rule Absolute giving full and complete relief to the Petitioners and/or pass such other order or orders as this Hon'ble Court may deem fit in the facts and circumstances of the case.

2. Pursuant to the filing of the writ petition, this Court had issued notice on

07.09.2021. On 21.08.2023 when the matter was listed, the learned Standing counsel appearing on behalf of the Karbi Anglong Autonomous Council submitted that the competent authority had already passed the order in terms with Section 3(G) of the National Highways Act, 1956. However, as the said order was not brought on record, this Court directed the Respondent Revenue Authorities to file an affidavit bringing on record the order so passed under Section 3(G) of the National Highways Act, 1956. This Court also finds it relevant that on the very date i.e. on 21.08.2023 there was a submission made by the learned Standing counsel of the Karbi Anglong Autonomous Council that the Petitioner Nos. 3, 5 and 8 have already received the compensation. However, as regards the other Petitioners, i.e. the Petitioner Nos. 1, 2, 4, 6 and 7, the compensation could not be paid as the bank details have not been submitted. The learned Standing counsel also submitted that the Petitioner No.9 had no right to receive any compensation taking into account that the land in question was a Government land wherein the structures standing thereon did not belong to the Petitioner No.9.

3. The learned counsel appearing on behalf of the Petitioners however submitted on 21.08.2023 that the Petitioners would be duly advised to submit their bank details. Under such circumstances, this Court directed the Petitioners to file an affidavit bringing on record the bank details. On 18.10.2023, when the matter was listed, it was duly informed to this Court that the Respondent No.8 has filed an additional affidavit on 17.10.2023. From the said additional affidavit, it reveals that the notification was published under Section 3A and 3D of the National Highways Act, 1956 in respect of Section 3 from km 65 to km 80 of Dokmoka to Loring Thepi of National Highway No.29 were as follows :

Land Acquisition For	Notifications under N.H. Act, 1956	Gazette Notification
Section 3 Dokmoka - Loring thepe km 65 to km 80	Section 3A	S.O. 3438 (E) dated 01-10-2020
	Section 3D	S.O. 4097 (E) dated 13-11-2020
2nd phase	Section 3A	S.O. 3741 (E) dated 21-10-2020
	Section 3D	S.O. 4352 (E) dated 03-12-2020
	Section 3G	Order dated 14.12.2020
Additional List	Section 3A	S.O. 1345 (E) dated 25-03-2022
	Section 3D	S.O. 2167 (E) dated 10-05-2022
	Section 3G	Order dated 04.08.2022

4. It was further mentioned that the area of acquired land, village, Dag and Patta numbers, compensation amount for acquired land and zirat of the Petitioner Nos. 1 to 8 are stated in the chart enclosed in the said affidavit. This Court had also perused the said chart enclosed to the affidavit which has been marked as Annexure-R1. In Paragraph No.4 of the Additional Affidavit, the facts that the compensation amount for acquisition of land had been determined and the amounts were also deposited by NHIDCL i.e. the Respondent No.4 in respect to Petitioner Nos. 1 to 8. It was further mentioned that the Petitioner Nos. 3, 5 and 8 had already received the compensation amount for the acquired land and they had acknowledged the receipt of the amount and submitted the undertaking to vacate the land and not to make any further claims and objections in respect of the acquired land. The compensation amount in respect of the Petitioner Nos. 2, 4, 6 and 7 are lying before the Competent Authority and as and when the Competent Authority

receives the bank account details of those Petitioners, the compensation amount would be transferred to their bank account. The compensation claimed by the Petitioner No. 9 being in respect of Government land and as such the Petitioner No.9 was not entitled for compensation for acquiring the Government land was stated therein.

5. The Court upon perusal of the said additional affidavit, does not find any reference as regards the Petitioner No.1 to the effect as to whether the said amount have been paid to the Petitioner or whether the said amount is still lying with the competent authority. Be that as it may, Annexure-R1 upon being perused reveals the names of all the Petitioner Nos. 1 to 8 are there. The additional affidavit shows that for the reason that the Petitioner No.9 is not the owner of the land and is not a person interested, no compensation has been determined or paid to the Petitioner No.9.

6. I have heard Mr. M. Sarania, the learned counsel appearing on behalf of the Petitioners who submitted that the amount of compensation as reflected in Annexure-R1 is much less than the amount to which the Petitioners are actually entitled to inasmuch as while computing the compensation, various aspects have not been taken into account as required under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He further submitted that the Petitioner No.9 is also entitled to the compensation in view of the fact that the land may not be of the Petitioner No.9 but the structures constructed thereupon belonged to the Petitioner No.9.

7. Mr. J. Chutia, the learned Standing counsel appearing on behalf of the Respondent No.8 however submitted that the Petitioner Nos. 3, 5 and 8 had

duly accepted the awards without any protest and have also received the compensation and as such, the Petitioner Nos. 3, 5 and 8 has no right to object to the quantum of compensation. He submitted that till date, the Petitioner Nos. 1, 2, 4, 6 and 7 have not furnished the bank details for which the said amounts could not be disbursed to the said Petitioners.

8. I have also heard Mr. C. Baruah, the learned Standing counsel appearing on behalf of the National Highway Authority of India and Mrs. V. L. Singh, the learned Standing counsel appearing on behalf of the Respondent No.4 who submits that if the Petitioners have any objection as regards the quantum of compensation, then the Petitioners have to approach the appropriate authority and this Court cannot adjudicate the inadequacy of the compensation under Article 226 of the Constitution.

9. From the facts narrated hereinabove and from a perusal of the additional affidavit filed by the Respondent No.8 and the enclosures thereto, it is seen that the competent authority had already submitted its report in terms with Section 3G(1) of the National Highways Act, 1956 in respect of the amount of compensation to which the Petitioner Nos. 1 to 8 are entitled to. Under such circumstances, if the Petitioners are aggrieved as regards the inadequacy of the compensation, the recourse available to the Petitioners is to file appropriate application before the competent authority under Section 3G(5) of the National Highways Act, 1956 and upon such application being filed, it is the requirement of law that an Arbitrator is to be appointed for the purpose of deciding the question of inadequacy of the compensation.

10. This Court also finds it relevant at this stage to take note of the submission of Mr. M. Sarania, the learned counsel appearing on behalf of the

Petitioners that the report so prepared by the competent authority in respect of the Petitioner Nos. 1 to 8 have not been furnished to the Petitioners and for which the Petitioners are not in a position to file the application as is required under Section 3G(5) of the National Highways Act, 1956. It is the opinion of this Court that Annexure-R1 to the affidavit filed by the Respondent No.8 on 17.10.2023 can be construed to be the report in respect to the Petitioners as regards the determination of compensation and therefore this Court grants liberty to the Petitioners to file the application, if so advised under Section 3G(5) of the National Highways Act, 1956 before the competent authority on the basis of computation so shown in Annexure-R1 to the affidavit dated 17.10.2023.

11. This Court also finds it relevant to take note of the contents of the affidavit filed by the Respondent No.8 which states that as regards the Petitioner No.3, 5 and 8, the payment of compensation has been duly made but however as regards the Petitioner Nos. 2, 4, 6 and 7, the said payment has not yet been paid on account of non-availability of the bank account details. This Court at this stage finds it relevant to take note of that in pursuance to order passed by this Court on 21.08.2023, the Petitioners have filed an affidavit on 07.09.2023 wherein the bank details of all the 9 petitioners have been duly mentioned. The copy of the said affidavit have also been served upon the Standing counsel of the Karbi Anglong Autonomous Council and as such, this Court finds no reason as to why the said Petitioners i.e. the Petitioner Nos.1, 2, 4, 6 and 7 have not yet been paid their entitlement as per the computation so made in Annexure-R1 of the affidavit dated 17.10.2023.

12. This Court therefore directs the Respondent No.8 to disburse the said

amount to the said Petitioner i.e. Petitioners Nos. 1, 2, 4, 6 and 7 within a period of 30 days from today. Taking into account the right which exist under Section 3G(5) of the National Highways Act, 1956 to the Petitioners to receive the amount under protest and challenge the determination, the Respondent Authorities shall not insist that the Petitioners should give an undertaking that they would not challenge the determination so made as regards their compensation.

13. Be that as it may, the Petitioners are also directed to submit the indemnity bond as well as their proof of identity within 15 days from today.

14. This Court have also taken note of the submission of the learned counsel appearing on behalf of the Petitioners in respect of the Petitioner No.9 which is a case that there has been no determination of compensation made in view of the fact that it is the stand of the Respondent Authorities that the Petitioner No.9 has no right to receive any compensation. If that be so, then the Petitioner No.9 would be well advised to approach the competent authority in terms with an application under Section 3H(4) of the National Highways Act, 1956 and upon the said Petitioner No.9 approaching, the competent authority shall make the reference to the Court of the District Judge, Karbi Anglong taking into account that the land has been acquired within the limits of the said Court.

15. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant