

GAHC010113692015



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

Case No. : WP(C)/786/2015

PORITOSH BHORODWAJ
S/O SRI JITENDRA NATH SHARMA R/O DHAPKATA P.O. REGIONAL
RESEARCH LABORATORY P.S. PULIBOR DIST. JORHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR
GUWAHATI-6.

2:THE DEPUTY COMMISSIONER

JORHAT
ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER

LAND REQUISITION BRANCH
OFFICE OF THE DEPUTY COMMISSIONER
JORHAT
ASSAM.

4:ON THE DEATH OF ABANI NATH SARMA HIS LEGAL HEIRS-
S/O LT. SIBANATH SARMA R/O NEHERU PARK
JORHAT
P.S. JORHAT
DIST. JORHAT
ASSAM.

4.1:SMT. KALPANA DEVI
W/O LT. ABANI NATH SARMA

R/O NEHERU PARK
JORHAT
P.S. JORHAT
ASSAM

4.2:JUBIN SARMA
S/O LT. ABANI NATH SARMA
R/O NEHERU PARK
JORHAT
P.S. JORHAT
ASSAM

4.3:SMTI. KAMALINEE DEVI
D/O LT. ABANI NATH SARMA
R/O NEHERU PARK
JORHAT
P.S. JORHAT
ASSAM

5:UNION OF INDIA

REP. BY SECRETARY
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS TRANSPORT BHAWAN
SANSAD MARG
NEW DELHI-110001

Advocate for the Petitioner : MS.P BHATTACHARYA

Advocate for the Respondent : MR.R SARMAR-4

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 10.02.2023

Heard Ms. P. Bhattacharya, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned Government Advocate appears for respondents No. 1 to 3.

Mr. K. Gogoi, learned CGC appears for Union of India.

This writ petition has been filed by the petitioner who

claims to be in possession of a plot of land measuring 2 kathas covered by Dag No.21 under Periodic Patta No. 80 in the Charingia village of Khangia Mouza, Jorhat since 2005.

The petitioner claims to be running a restaurant on the said plot of land since last several years. This plot of land was originally handed over by respondent No.4 out of love and affection to the petitioner for the help rendered by petitioner to respondent No.4.

It is the case of the petitioner that the respondent No.4 sometime in January, 2009 requested the petitioner for a loan of Rs.1,00,000/- (Rupees one lakh) only, which the petitioner could not arrange and because of which the respondent No.4 felt slighted and filed a Title Suit against the petitioner for a decree for eviction, recovery of khas possession, arrear rent and compensation, which was registered and numbered as T.S. No.44/2009. The suit was contested and subsequently vide Judgment dated 13.05.2013 the learned Court of Munsiff No.1, Jorhat was pleased to decree the suit of the respondent No.4 as the plaintiff.

Being aggrieved the petitioner filed a Title Appeal being T.A. No.12/2013 before the learned Civil Judge, Jorhat. During the currency of the Title Appeal the land in question which was the cause of dispute between the petitioner and the respondent No.4 came to be acquired under the National Highways Act, 1956 for the purpose of 4 lane Highway project and to that effect L.A. Case No.4/2014 has been instituted

before the Competent Authority, namely, respondent No.3 for payment of compensation. The petitioner filed representation before the respondent No.3 with a request not to release the compensation amount till disposal of the Title Appeal being T.A. No.12/2013. It is the grievance of the petitioner that since he had constructed a permanent structure on the said plot of land and the same having been acquired by the National Highway for the purposes of construction of High Way, he suffered damages and therefore was entitled to compensation. However, his prayers not been acceded to and as such he approached this Court by filing the present writ petition.

This Court vide order dated 13.02.2015 issued Notice of motion and granted an interim order that the respondent No.3 shall not disburse the compensation amount to the respondent No.4. The said interim order continued. In the meantime during the proceedings of the writ petition, respondent No.4 expired and vide order of this Court dated 09.01.2023 passed in I.A. (C)/2852/2022, the legal-heirs of the respondent No.4 were impleaded as respondents No. 4.1, 4.2 and 4.3.

When the matter was taken up today, it has been fairly submitted by the learned counsel for the petitioner that the Title Appeal No.12/2013 was allowed by the First Appellate Court and against which the respondent No.4.1, 4.2 and 4.3 have preferred second appeal and which is presently pending before this Court for disposal being numbered as RSA 250/2016.

Under the circumstances, no effective purpose will be served by keeping this writ petition pending. We find from the records that the respondent No.4 had contested the writ petition by filing an affidavit. The respondent No.2 also filed an affidavit, whereby they dispute that the claims of the petitioner on the basis of the records available. Be that as it may, since the T.A. No. 12/2013 was allowed in favour of the petitioner and against which second appeal has been preferred by the respondents No. 4.1, 4.2 and 4.3, we deem it appropriate to dispose of this writ petition at this stage permitting the respondents to approach the Additional Deputy Commissioner, respondent No.3, Land Requisition Branch, Office of the Deputy Commissioner, Jorhat, Assam, who is the authorized officer under Section 3 G and 3 H of the National Highways Act to look into the grievances, if any, of the petitioner in respect of the compensation stated to be payable to the petitioner for the damages caused on the land acquired by the National Highway and on which it is claimed that the petitioner had constructed a permanent structure running for as a restaurant. The respondent No.3 will look into the grievances of the petitioner as directed and upon hearing the petitioner and other necessary parties pass adequate orders as per provision of law within the period of 4 (four) weeks from the date of receipt of certified copy of this order. Any such order that is passed shall be served upon the petitioner.

Needless to say that it is open to the petitioner to make

additional prayers as advised before this Court in RSA No. 250/2016 as per provision of law.

With the above observations this Writ petition is accordingly closed and disposed of.

JUDGE

Comparing Assistant