

GAHC010128912018



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

Case No. : WP(C)/3921/2018

SRI MOHAN DUTTA
S/O- LT JIBA KANTA DUTTA, R/O- DULIAJAN (NC GAON), PO AND PS
DULIAJAN, DIST- DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE
DEPTT., DISPUR, GHY-6

2:THE DY. COMMISSIONER
SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-785680

3:THE ADDL. DY. COMMISSIONER
SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-785680

4:THE CIRCLE OFFICER
AMGURI REVENUE CIRCLE
SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-785684

5:THE LAT MANDAL
AMGURI REVENUE CIRCLE
DIST- SIVASAGAR
ASSAM
PIN-785684

6:SRI AKON DUTTA
S/O- LT KAMALA KANTA DUTTA
R/O- CHARING DULIA GAON
PO CHARING
PS AMGURI
DIST- SIVASAGAR
ASSAM
PIN-785661

7:SRI MOHAN DUTTA
S/O- LT KAMALA KANTA DUTTA
R/O- CHARING DULIA GAON
PO CHARING
PS AMGURI
DIST- SIVASAGAR
ASSAM
PIN-785661

8:SRI PABAN DUTTA
S/O- LT KAMALA KANTA DUTTA
R/O- CHARING DULIA GAON
PO CHARING
PS AMGURI
DIST- SIVASAGAR
ASSAM
PIN-78566

For the Petitioner(s) : Mr. P. J. Saikia, Advocate

For the Respondent(s) : Ms. U. Das, Addl. Sr. Government Advocate
: Mr. A. Bhattacharjee, Standing Counsel
: Mr. A. Ahmed, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 18.10.2023

1. The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities in not making payment of amount of compensation to the Petitioner in respect to the land measuring 1

Katha 16 Lechas covered by Dag No.765 of Patta No.102 of village Charing Baruwati under Mourabazar Mouza under Amguri Revenue Circle in the District of Sivasagar and/or not referring the said dispute as regards the entitlement of the compensation in respect to the acquisition of the said land to the Principal Civil Court as per the provisions of National Highways Act, 1956.

2. From the facts narrated in the writ petition, it reveals that various lands were acquired under the National Highways Act, 1956 including a plot of land measuring 1 Katha 16 lechas covered by Dag No.765 of Patta No.102 of village Charing Baruwati under Mourabazar Mouza under Amguri Revenue Circle in the District of Sivasagar. The Petitioner on coming to learn about the same, filed a petition on 18.03.2016 before the Additional Deputy Commissioner, Sivasagar seeking a direction for releasing of the compensation amount to the Petitioner in connection with LA Case No.SVR/4 Lane/5/15. Pursuant to the making of the said petition, the Petitioner also filed an application stating inter alia that the Private Respondents had no right over the land and as such the amount of compensation should not be released to the Private Respondents herein. The Respondent No.3 however vide an order dated 18.02.2017 instead of making a reference decided the issue and held that the Private Respondents were entitled to the said amount in respect to the land in question. It is under such circumstances that the Petitioner has approached this Court by filing the instant writ petition.

3. Mr. P. J. Saikia, the learned counsel appearing on behalf of the Petitioner has drawn the attention of this Court to Section 3H of the National Highways Act, 1956 and more particularly to Sub-Section (3) and (4) of Section 3H of the National Highways Act, 1956 and submitted that when there is no dispute, the competent authority would be within its jurisdiction to disburse the amount but

once there is a dispute, the competent authority loses the jurisdiction and has no other option but to refer it to the Principal Civil Court for a decision in respect to the apportionment or entitlement of the compensation.

4. This Court has duly heard the learned counsels for the Respondents. Taking into account the specific submission, this Court finds it relevant to quote Section 3H(3) and 3H(4) of the National Highways Act, 1956 which is as hereinunder:

*“**3H(3)** Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.*

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”

5. The above quoted provisions clearly shows that the moment there is a dispute as regards the entitlement of compensation or apportionment of the compensation, the competent authority cannot decide the same and the same has to be referred to the Principal Civil Court. Under such circumstances, it is the opinion of this court that the order so passed on 18.02.2017 by the Respondent No.3 thereby rejecting the objections filed by the Petitioner is on the face of it beyond his jurisdiction and authority and accordingly, the said order dated 18.02.2017 passed by the Respondent No.3 is set aside and quashed.

6. This Court further directs the Respondent No.3 who is the competent authority, as per Ms. U. Das, the learned Addl. Senior Government Advocate to

refer the matter to the Principal Civil Court within whose jurisdiction the land is situated within a period of 30 days from the date of submission of the certified copy of the instant order.

7. This Court further makes it clear that the above observations or setting aside of the order dated 18.02.2017 shall not prejudice either of the parties before the Reference Court.

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

JUDGE

Comparing Assistant