

GAHC010156952018



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

Case No. : WP(C)/4825/2018

TURESWAR SAIKIA AND 5 ORS.

S/O- SUNABOR SAIKIA, R/O- VILL- NO. BISHNUPUR UNDER SISSI MOUZA,
P.O AND P.S- DHEMAJI, DIST- DHEMAJI, ASSAM

2: MONESWAR BHUYAN

S/O-LAMON BHUYAN

R/O- VILL- NO. BISHNUPUR UNDER SISSI MOUZA

P.O AND P.S- DHEMAJI

DIST- DHEMAJI

ASSAM

3: KHAGEN CHUTIA

S/O- LALIT CHUTIA

R/O- VILL- NO. BISHNUPUR UNDER SISSI MOUZA

P.O AND P.S- DHEMAJI

DIST- DHEMAJI

ASSAM

4: AKHIL SAIKIA

S/O- BIPIN SAIKIA

R/O- VILL- NO. BISHNUPUR UNDER SISSI MOUZA

P.O AND P.S- DHEMAJI

DIST- DHEMAJI

ASSAM

5: RAMESWAR BHUYAN

S/O- BIPIN SAIKIA

R/O- VILL- NO. BISHNUPUR UNDER SISSI MOUZA

P.O AND P.S- DHEMAJI

DIST- DHEMAJI

ASSAM

6: PADMA BHUYAN

S/O- NORMAN BHUYAN R/O- VILL- NO. BISHNUPUR UNDER SISSI MOUZA

P.O AND P.S- DHEMAJI
DIST- DHEMAJI
ASSA

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM, DISPUR,
GUWAHATI- 781006

2:THE PRINCIPAL SECRETARY
GOVT OF ASSAM
WATER RESOURCES DEPTT
DISPUR
GUWAHATI- 781006

3:THE DEPUTY COMMISSIONER
DHEMAJI
P.O AND P.S- DHEMAJI
DIST- DHEMAJI
ASSAM
PIN- 787057

4:THE LAND ACQUISITION AND REQUISITION OFFICER
DHEMAJI
P.O AND P.S- DHEMAJI
DIST- DHEMAJI
ASSAM
PIN- 787057

5:THE CHIEF ENGINEER
WATER RESOURCES DEPTT
CHANDMARI
GHY- 3

6:THE ADDITIONAL CHIEF ENGINEER
UPPER ASSAM ZONE
DIBRUGARH
P.O AND P.S- DIBRUGARH
ASSAM
PIN- 781003

7:THE SUPERINTENDING ENGINEER
NORTH LAKHIMPUR
WATER RESOURCES CIRCLE
P.O AND P.S- NORTH LAKHIMPUR
DIST- NORTH LAKHIMPUR
ASSAM

PIN- 781002

8:THE EXECUTIVE ENGINEER
DHEMAJI WATER RESOURCES DIVISION
P.O AND P.S- DHEMAJI
DIST- DHEMAJI
ASSAM
PIN- 787057

9:THE PRINCIPAL SECRETARY

REVENUE AND DISASTER MANAGEMENT DEPARTMENT
ASSAM

Advocate for the Petitioner : MR. R J BORDOLOI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 15-05-2023

Heard Ms. D. Sonowal, learned counsel for the petitioners; Mr. B. Goswami, learned Additional Advocate General, Assam assisted by Mr. P. Kakati, learned counsel for the respondent nos. 1, 2, 3, 5, 6, 7 & 8; Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent no. 4; and Ms. N. Bordoloi, learned Standing Counsel, Revenue Department for the respondent no. 9.

2. The petitioners, 6 [six] in nos., have joined together to institute the instant writ petition under Article 226 of the Constitution of India seeking inter alia a direction to the respondent authorities to pay compensations as per their entitlement in respect of the parcels of land, belonging to them, acquired for the purpose of construction of Gainodi Right Bank Embankment at Village –

Bishnupur under Mouza – Sissi, District – Dhemaji.

3. From the counter affidavit of the respondent no. 5, it has emerged that the Dhemaji Water Resources Division prepared a project estimate for the work, 'Raising and strengthening and extension of both bank of Gainadi dykes including A/E measures Ph-I [Extension of L/b dyke from Ch. 3.00 Km to Ch. 5.20 Km and R/B dyke from Ch. 3.70 Km to Ch. 4.20 Km] ['the Subject-Project', for short]. The Scheme received Administrative Approval vide no. WR[C]39/2005/3 dated 18.07.2005. For the purpose of execution of the Project, some parcels of land belonging to the petitioners were acquired in order to extend the Gainadi R/b embankment, through the Deputy Commissioner, Dhemaji. As per the respondent no. 5, the details of the parcels of lands along with the respective areas of land, acquired from the petitioners are as under :

Sl. No.	Name	Bigha	Katha	Lecha	Dag no.	Patta no.
1	Tureswar Saikia [petitioner no. 1]	1	3	-	83 Kha	24 Eksonia
2	Moneswar Bhuyan [petitioner no. 2]	-	-	10	48 Kha	44 Eksonia
3	Khagen Chutia [petitioner no. 3]	-	2	18	49 Kha	15 Eksonia
4	Akhil Saikia [petitioner no. 4]	4	2	10	54 Kha	5 Eksonia
5	Rameswar Bhuyan [petitioner no. 5]	1	-	11	57 Kha	52 Eksonia
6	Saruti Bhuyan	1	-	11	113 Kha	96 Eksonia

4. It is averred by the respondent no. 5 that on the basis of the report submitted by the Circle Officer, Sissiborgaon Revenue Circle and countersigned by the Deputy Commissioner, Dhemaji, the valuations of the parcels of land acquired from the petitioners, were determined/calculated and the compensation amounts payable to the petitioners are as follows :

[I] The petitioner no. 1 [Sri Tureswar Saikia] : Rs. 79,936.00 for land.

[II] The petitioner no. 2 [Sri Moneswar Bhuyan] : Rs. 6532.00 for land bamboo and others trees etc.

[III] The petitioner no. 3 [Sri Khagen Chutia] : Rs. 39,087.00 for land, bamboo & other trees etc.

[IV] The petitioner no. 4 [Sri Akhil Saikia] : Rs. 2,24,820.00 for land.

[V] The petitioner no. 5 [Sri Rameswar Bhuyan] : Rs. 55,456.00 for land.

5. In the counter affidavit filed by the respondent nos. 1 & 9, it is averred that the Deputy Commissioner, Dhemaji has recorded the details of the parcels of land acquired from the petitioner, as follows :

[a] That land measuring 1 Bigha 3 Katha 0 lecha covered by Dag No. 83 [Kha] of A.P No. 24 of Sri Tureswar Saikia, Son of Sombar Saikia was acquired for the construction of Gainadi Dyke on both bank on downstream of N.H 52, Village - Bishnupur under L.A Case No.DLA-1/2005/Pt-1.

[b] Land measuring 0 Bigha 0 Katha 10 Lecha by Dag No. 48 [Kha] of A.P No. 44 of Sri Maneswar Bhuyan, Son of Lamon Bhuyan was acquired for construction of Gainadi Dyke on both banks on downstream of NH.52, Village-Bishupur under L.A Case No.DLA-1/2005/Pt-1.

[c] Land measuring 0 Bigha 2 Katha 18 Lecha by Dag No. 49 [Kha] of A.P No. 15 of Sri Khagen Chutia, Son of Lalit was acquired for construction of Gainadi Dyke on both banks on downstream of N H 52, Village - Bishupur under L.A Case No. DLA -1/2005/Pt-1

[d] Land measuring 04 Bigha 2 Katha 10 Lecha by Dag No. 54 [Kha] of A.P No. 5 of Sri Khagen Chutia, Son of Lalit was acquired for construction of Gainadi Dyke on both banks on downstream of N H 52, Village - Bishupur under L.A Case No. DLA-1/2005/Pt-1

[e] Land measuring 01 Bigha 00 Katha 11 Lecha by Dag No. 57 [Kha] of A.P No. 52 of Sri Khagen Chutia, Son of Lalit was acquired for construction of Gainadi Dyke on both banks on downstream of N H 52, Village - Bishupur under L.A Case No. DLA-1/2005/Pt-1.

6. Though the parcels of lands belonging to the petitioners were acquired vide the proceedings of L.A. Case no. DLA-01/2005/Pt-1 for the Subject-Project, the petitioners were not paid the compensation amounts till the time of institution of the writ petition in the year 2018.

7. Mr. Goswami, learned Additional Advocate General, Assam has placed a letter bearing no. E 275679/22 dated 16.02.2023 of the Secretary to the Government of Assam, Water Resources Department, Dispur addressed to the Joint Secretary to the Government of Assam, Revenue & Disaster Management [LR] Department, Dispur dated 16.02.2023. From the said letter dated 16.02.2023, it has emerged that though a proposal for acquisition of land for the Subject-Project was forwarded as far back in the year 2013, there was no response from the Revenue & Disaster Management Department.

8. Mr. Goswami has placed another letter of the Revenue & Disaster Management Department, Government of Assam bearing no. ECF NO. 279138/80 dated 05.03.2023 addressed to the Deputy Commissioner, Dhemaji. From the letter dated 05.03.2023 of the Revenue & Disaster Management Department, it is noticed that the Revenue & Disaster Management Department has instructed the Deputy Commissioner, Dhemaji to take immediate steps for initiation of fresh land acquisition proceedings following the provisions of the prevailing statute governing the process of land acquisition in respect of L.A. Case no. DLA-01/2005/Pt-1 in connection with the parcels of land of the

petitioners involved in the present writ petition.

9. Ms. Sonowal, learned counsel for the petitioner has submitted that since it is evident that the earlier acquisition process did not result into any Award, any fresh proceedings if to be initiated, is to be under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [‘the RFCTLARR Act, 2013’]. She has referred to an order dated 18.09.2017 passed in the writ petition, W.P.[C] no. 2366/2016 in respect of three petitioners therein who, Ms. Sonowal has claimed, were similarly situated like the petitioners herein.

10. As from the letter dated 05.03.2023 of the Revenue & Disaster Management Department, it is evident that the proceedings of L.A. Case no. DLA-01/2005/Pt-1 did not result into any Award under Section 11 of the Land Acquisition Act, 1894 [since repealed], followed by disbursal of compensation amounts earlier assessed. Thus, any proceedings to be initiated afresh, for assessment of compensation for acquisition of the parcels of land of the petitioners, the same is to be under the provisions of the RFCTLARR Act, 2013, as has already been directed by the order dated 18.09.2017 passed in the writ petition, W.P.[C] no. 2366/2016. As the possession of petitioners’ parcels of lands were taken over as far back as in the year 2008, the respondent authorities are directed to complete the entire exercise under the provisions of the RFCTLARR Act, 2013 and to pass the necessary Award and disburse the assessed compensation amounts to the petitioners in an expeditious manner, but not later than an outer limit of 6 [six] months from the date of receipt of a certified copy of this order at the office of the Deputy Commissioner, Dhemaji from the end of the petitioners.

11. This order disposes of the writ petition.

JUDGE

Comparing Assistant