

GAHC010176242022



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

Case No. : WP(C)/5766/2022

MUSTAQUE AHMED TALUKDAR AND 7 ORS
S/O- ASAD ALI TALUKDAR, R/O- VILL- JAMIRA PART-II, P.O. JAMIRA
BAZAR, DIST.- HAILAKANDI, ASSAM

2: HIFJUR RAHMAN CHOUDHURY
S/O- LATE AZIZUR RAHMAN CHOUDHURY
R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSAM

3: ABDUL WAHAB BARBHUIYA
S/O- LT. WATIR ALI BARBHUIYA
R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSAM

4: SURATUN NESSA TALUKDAR
W/O- LATE ASOD ALI TALUKDAR
R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSAM

5: HUSSAIN AHMED BARBHUIYA
S/O- LATE ABDUL JABBAR BARBHUIYA
R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSAM

6: AMIR ALI LASKAR
S/O- LATE JUNAB ALI LASKAR

R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSAM

7: MOINUL HAQUE BARBHUIYA
S/O- LATE MOBAT ALI BARBHUIYA
R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSAM

8: FORIDA BEGUM LASKAR
W/O- LATE AYAZ ALI LASKAR
R/O- VILL- JAMIRA PART-II
P.O. JAMIRA BAZAR
DIST.- HAILAKANDI
ASSA

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY ITS SECY. TO THE GOVT. OF INDIA, MINISTRY OF SURFACE,
TRANSPORT AND NATIONAL HIGHWAYS, TRANSPORT BHAWAN,
PARLIAMENT STREET, NEW DELHI, 110001

2:THE STATE OF ASSAM
REP. BY ITS PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
DISPUR
GHY-6

3:THE COMM. AND SPL. SECRETARY TO THE GOVT. OF ASSAM
PUBLIC WORKS DEPTT.
DISPUR
GHY-06

4:THE CHIEF ENGINEER
(NH WORKS)
ASSAM
CHANDMARI
GHY-03

5:THE DY. COMMISSIONER
HAILAKANDI
PIN- 788151

6:THE PROJECT DIRECTOR

PROJECT IMPLEMENTATION UNIT
NATIONAL HIGHWAY AUTHORITY OF INDIA
MINISTRY OF ROADS
TRANSPORT AND HIGHWAY
GOVT. OF INDIA
HOUSE NO. 328
COLLEGE ROAD
AMBIKA PATTY SILCHAR
PIN- 788004

7:THE EXECUTIVE ENGINEER
PWD (NH)
SILCHAR
PIN- 78800

Advocate for the Petitioner : MR. A H M R CHOUDHURY

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 13/10/2023

Heard Mr. A. H. M. R. Choudhury, learned counsel for the writ petitioners. Also heard Mr. P.K. Medhi, learned CGC, appearing for the respondent no.1, Ms. N. Bordoloi, learned Standing Counsel, Revenue and DM Department, Assam, appearing for the respondent no. 2, Mr. B. Choudhury, learned Standing Counsel, PWD, Assam, representing the respondent nos. 3, 4 & 7 and Mr. B.J. Talukdar, learned senior counsel assisted by Mr. S. Baruah, learned Government Advocate, Assam, appearing for the respondent no.5. None has appeared for the respondent no. 6 although the name of the counsel is shown in the cause list.

As per the case projected in the writ petition, the land belonging to the writ petitioners herein was acquired in the year 2009-2010 for the purpose of construction of National Highway No. 154 in the Hailakandi District and some compensation was also paid to them for the land. However,

aggrieved by the assessment of compensation, the petitioners had filed application under section 3G(5) of the National Highways act, 1956 before the Deputy Commissioner, Hailakandi i.e. the respondent no. 5 herein for reassessment of the amount of compensation. Since no action was taken in the matter by the respondent no. 5, some of the writ petitioners along with few other effected persons, had earlier approached this Court by filing WP(C) 1127/2019, which was disposed of by the order dated 20/02/2019 directing the petitioners to file appropriate application under section 3G(5) of the National Highways act, 1956 before the Commissioner, Barak Valley Division, who is the Arbitrator appointed under the Act of 1956.

In terms of the order of this Court, the matter was referred to the Arbitrator, who had also passed award dated 19/06/2019 directing the competent authority to update the assessment of *jirat* etc for the whole stretch of land.

Mr. Talukdar submits that in terms of the award dated 19/06/2019, reassessment has also been made by the respondent no. 5 and forwarded the proposal for payment to the concerned department. Therefore, it is now for the department to act on the same and release the payment.

The above stand of the District Administration has been brought on record by filing an affidavit by the respondent no. 5 on 02/01/2023. The statements made in para 7 of the affidavit are extracted herein below for ready reference :-

“7. That with regard to the averments made in paragraph – 5 and 6 of the writ petition the deponent begs to state that it is a fact that the Divisional Commissioner, Barak Valley Division, as Arbitrator to the Central Govt. under section 3G(5) of the National Highways Act, 1956 and he passed an Arbitration Award dated 19-06-2019 and directed the Competent Authority to update assessment of jirat etc. of the whole stretch.

Accordingly as per the Arbitration Award dated 19-06-2019, the revised estimate were prepared and sent to the requiring department i.e. the Executive Engineer, PWD(NH) Division, Karimganj vide office letter No. HLA.24/2019/25 dated 02/09/2019 and No. HLA.24/2019/32 dated 09/11/2020 for accord sanction and placement of fund thereof for payment of

compensation to the affected persons but till date no fund received from the requiring department. Payment to the petitioners will be made after receiving of fund.”

There is no rejoinder to the affidavit filed by the respondent no. 5.

Mr. P.K. Medhi, learned CGC as well as Mr. B. Choudhury, learned Standing Counsel, PWD, Assam, could not make any submission so as to appraise this Court as to the stand taken by their respective clients for releasing the amount.

The land of the petitioners were acquired more than a decade back and, therefore, they cannot be kept waiting any further, more so, since the amount has been determined by the Arbitrator and the process of reassessment has also been concluded.

In view of the above, this writ petition stands disposed of by providing that the concerned authorities would take appropriate steps under the law for acting on the reassessment order and thereafter, release the fund to the petitioners, as expeditiously as possible, but not later than 3 (three) months from the date of receipt of a certified copy of this order.

The writ petition stands disposed of accordingly.

JUDGE

sukhamay

Comparing Assistant