

GAHC010193132023



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

Case No. : WP(C)/5060/2023

CHANDAN DEB
S/O. BHUPENDRA DEB. VILL- AGIA PT.II (ULUPARA) P.S- AGIA, DIST -
GOALPARA PIN - 783120

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPTT. OF
LAND REVENUE ETC, DISPUR, GUWAHATI - 781006

2:THE DEPUTY COMMISSIONER
GOALPARA
(CALA) PIN - 783101.

3:THE DISTRICT DEVELOPMENT COMMISSIONER AND CALA
GOALPARA PIN - 783101

4:THE CIRCLE OFFICER
P.O- BALIJANA P.S- AGIA DIST- GOALPARA PIN - 783120

5:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
GOVT. OF INDIA DEPTT. OF NHAI
DELHI. 11

6:THE DEPUTY GENERAL MANAGER (P) NHIDCL
PMU
BONGAIGAON
ASSAM
PIN - 783385

For the Petitioner (s)

: Mr. A.Roshid. Advocate.

For the Respondent (s) : Mr. C. Baruah, Advocate, NHA
: Mr. S. Baruah, Government Advocate
: Mr. A. Bhattacharjee, SC, Revenue

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 01.09.2023

The instant writ petition has been filed by the Petitioner seeking a direction upon the Respondents not to evict the Petitioner from the land under Dag No. 363 of Village Agia Pt.II (Ulupara), Revenue Circle, Balijana and also not to demolish the A.T. House, boundary wall, mandir and standing trees situated 80 ft away from Ajia Pt.II (Ulupara) four lane of N.H. 17 of Package-7.

2. Taking into account the issue involved herein, the instant writ petition is taken up for disposal at the motion stage itself.

3. From a perusal of the materials on record, it transpires that the Petitioner is in occupation of a plot of land measuring 4 bighas 2 kathas 8 lechas covered by Dag No. 363 of Village Agia Pt.II (Ulupara), Revenue Circle, Balijana in the District of Goalpara. There being no document produced that the Petitioner is the owner of the land. It has been alleged in the petition that in respect to the said land under occupation of the Petitioner, no acquisition proceedings under the appropriate provisions of law have been initiated. The basis of the said allegation is that the Petitioner had not been served any notice. The Petitioner had also filed a petition dated 6.5.2023 before the Additional Deputy Commissioner, Revenue praying to grant compensation for the land, house,

mandiretc inasmuch as similarly situated other persons have been granted compensation for similar land. The Petitioner apprehends that he may be evicted from the land and the structures constructed thereupon would be demolished for which the Petitioner is before this Court.

4. I have heard the learned counsels for the parties.

5. From a perusal of the materials on record as nothing could be shown that the Petitioner is the owner of land, the question of granting compensation in respect to the land does not arise. However, if there are certain structures standing thereupon, the Petitioner becomes a "person interested" for which he would be entitled to compensation in respect to the said structures.

6. This Court further finds it relevant to take note of that for the purpose of acquisition of the land under National Highways Act, 1956 the provisions of Sections 3A and 3D are required to be followed meaning thereby that the land wherein the Petitioner is in occupation has to be included in the Notification issued under Sections 3A and 3D of National Highways Act, 1956. It is also relevant to take note of that in terms with Section 3D of The National Highways Act, 1956 upon issuance of the said Notification, the land vest upon the competent authority so that the same could be transferred to the National Highway Authority of India.

7. Accordingly, this Court therefore disposes of the instant writ petition thereby directing the Respondent Authorities to verify as to whether the land wherein the Petitioner is in occupation has been included in the Notification issued under Sections 3A and 3D of National Highways Act, 1956. If the said land has been included in the Notifications issued under Sections 3A and 3D of

National Highways Act, 1956 then the Respondent Authorities would be at liberty to evict the Petitioner from the said land. This Court further observes that the Petitioner would be entitled to zirat compensation, if there are any structures constructed by the Petitioner on the said land or standing crops belonging to the Petitioner.

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

JUDGE

Comparing Assistant