

GAHC010195812019



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

Case No. : WP(C)/6008/2019

BIMAL NATH
S/O. LT. BENUDHAR NATH, VILL. BONGORA, SARUKAITASIDDI, P.O.
BONGORA, P.S. PALASHBARI, DIST. KAMRUP, ASSAM, PIN-781015.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE
DEPTT., DISPUR, GUWAHATI-06.

2:THE DY. SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND D.M. (LR) DEPTT.
ASSAM SECRETARIAT (CIVIL)
DISPUR
GUWAHATI-06.

3:THE DY. COMMISSIONER

KAMRUP (R)
AMINGAON
GUWAHATI-781031.

4:THE CIRCLE OFFICER

PALASHBARI REVENUE CIRCLE
MIRZA
DIST. KAMRUP (R)
ASSAM
PIN-781125.

5:THE ACQUISITION OFFICER

DEPTT. OF ACQUISITION
OFFICE OF THE DY. COMMISSIONER
KAMRUP (R)
AMINGAON
GUWAHATI-781031

Advocate for the Petitioner : MR. S BARUAH

Advocate for the Respondent : SC, REVENUE

Linked Case : WP(C)/6140/2019

SABITRI NATH
W/O- LT. PRAFULLA CH. NATH
R/O- VILL. BONGORA
SARUKAITASIDDI
P.O. BONGORA
P.S.- PALASHBARI
DIST.- KAMRUP
ASSAM
PIN- 781015.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE DEPTT.
DISPUR
GUWAHATI-6.

2:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND D.M. (LR) DEPTT.
ASSAM SECRETARIAT (CIVIL)
DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER
KAMRUP(R)
AMINGAON
GUWAHATI- 781031

4:THE CIRCLE OFFICER
PALASHBARI REVENUE CIRCLE

MIRZA
DIST- KAMRUP(R)
ASSAM
PIN- 781125.
5:THE ACQUISITION OFFICER
DEPTT. OF ACQUISITION
O/O. THE DEPUTY COMMISSIONER
KAMRUP(R)
AMINGAON
GUWAHATI- 781031.

Advocate for : MR. A DAS
Advocate for : SC
REVENUE appearing for THE STATE OF ASSAM AND 4 ORS.

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

22.02.2023

Heard Mr. S. Baruah, learned counsel for the petitioners; Ms. P.R. Mahanta, learned Standing Counsel, Revenue Department for the respondent nos. 1-2; and Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent nos. 3, 4 & 5.

2. The two petitioners have instituted the writ petitions under Article 226 of the Constitution of India seeking a direction to the respondent authorities to disburse/release a compensation amount of Rs. 10,73,520/- to each of the petitioners.

3. The projected case of the petitioners, in brief, is that as per the Jamabandi for surveyed village [Annexure-1] pertaining to Revenue Village – Sontola, Mouza - Chayani, Palashbari Revenue Circle, Dag no. 781 & Patta no. 80 consists of a parcel of land measuring 15 Bighas 0 Katha 12 Lessas [15B-00K-12L]. Out of the said 15B-00K-12L, one Late Benudhar Nath was the absolute owner of a plot of land measuring 07B-02K-16L, covered by Dag no. 781 [‘the subject-land’, for short]. The subject-land came to be acquired by the Government of Assam for establishment of the Indian Institute of Information Technology

[IIIT] and for that purpose, a land acquisition proceeding vide L.A. Case no. 2/2012 was initiated.

3.1. Late Benudhar Nath who expired on 06.09.1997, had 6 [six] legal heirs/sons viz. [i] Keshab Nath, [ii] Rameshwar Nath, [iii] Phatik Nath, [iv] Padmeswar Nath, [v] Bimal Nath [the petitioner in W.P.(C) no. 6008/2019] and [vi] Late Prafulla Nath who was the husband of Smti. Sabitri Nath [the petitioner in W.P.(C) no. 6140/2019].

3.2. The respondent authorities after acquisition, determined the total compensation amount against the subject-land @ Rs. 64,41,120/-. From the letter dated 20.02.2019 of the Additional Deputy Commissioner, Kamrup [Annexure-5], it is noticed that other 4 [four] legal heirs of Late Benudhar Nath viz. [1] Keshab Nath, [2] Rameshwar Nath, [3] Phatik Nath and [4] Padmeshwar Nath had received their respective share out of the total compensation amount of Rs. 64,41,120/-, which amounted to Rs. 42,94,080/- with each one receiving Rs. 10,73,520/-. The said letter further reflects that an amount of Rs. 21,47,040/- is yet to be disbursed in favour of the 2 [two] petitioners herein.

3.3. Aggrieved by the non-disbursal of the already determined compensation amount of Rs. 21,47,040/-, the petitioners have approached this Court by these 2 [two] writ petitions.

4. Mr. Gogoi, learned Additional Senior Government Advocate, Assam has placed a Communication bearing no. KRA.99/WPC/6140/2019 dated 21.02.2023 of the Additional Deputy Commissioner, Kamrup, Amingaon, addressed to him today. Mr. Gogoi has submitted that the said authority has informed by the said communication that the compensation amounts would be paid to the petitioners herein, at the earliest, subject to the availability of fund at the end of the Deputy Commissioner, Kamrup, Amingaon. In view of such instruction, Mr. Gogoi has further submitted that the writ petition may be disposed of with a direction to disburse/release the amount of Rs. 21,47,040/-, that is, Rs. 10,73,520/- to each of the two petitioners within a reasonable time period. According to Mr. Gogoi, 2 [two] months would be the reasonable period.

5. It is a fact that the other four legal heirs/sons of Late Benudhar Nath, the owner of the subject-land measuring 07B-02K-16L, were disbursed their respective share @ Rs. 10,73,520/- them at a much earlier period and these two petitioners were not disbursed the afore-mentioned compensation amounts till date.

6. Having regard to the afore-mentioned fact and circumstances of the case and the submissions made by the learned Junior Government Advocate, Assam, this writ petition is disposed of with a direction to the respondent authorities, more particularly, the Deputy Commissioner, Kamrup, Amingaon [the respondent no. 3] to disburse the total compensation amount of Rs. 21,47,040/-, that is, Rs. 10,73,520/- to each of the petitioners within a period of 2 [two] months from the date of receipt of a certified copy of this order from the petitioners at his office.

7. This order disposes of the two writ petitions. No cost.

8. A copy of the Communication bearing no. KRA.99/WPC/6140/2019 dated 21.02.2023 be kept as part of the case record.

JUDGE

Comparing Assistant