

GAHC010197312023



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

Case No. : WP(C)/5205/2023

UNION OF INDIA AND 4 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF ROAD TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN, 1,
PARLIAMENT STREET, NEW DELHI-110001

2: THE EXECUTIVE DIRECTOR
NHIDCL
2ND FLOOR
AGNISHANTI BUSINESS PARK
OPP AGP OFFICE
AMBARI
GUWAHATI-781001

3: THE GENERAL MANAGER (LA AND COORD)
NATIONAL HIGHWAYS INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
REGIONAL OFFICE- GUWAHATI
ASSAM
PIN-781001

4: THE GENERAL MANAGER (P)
NATIONAL HIGHWAYS INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
PMU
DIPHU
PWD (IB)
PWD COLONY
LUMDING ROAD
DIPHU
PIN-78246

VERSUS

THE STATE OF ASSAM AND 12 ORS.

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, GENERAL ADMINISTRATION DEPARTMENT, DISPUR,
GUWAHATI-781006

2:THE STATE OF ASSAM
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006

3:THE KARBI ANGLONG AUTONOMOUS COUNCIL
REPRESENTED BY ITS PRINCIPAL SECRETARY
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460

4:THE PRINCIPAL SECRETARY
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460

5:THE JOINT SECRETARY CUM COMPETENT AUTHORITY FOR LAND
ACQUISITION
KARBI ANGLONG AUTONOMOUS COUNCIL
ASSAM
PIN-78246

6:THE DEPUTY COMMISSIONER
KARBI ANGLONG AUTONOMOUS COUNCIL
ASSAM
PIN-782460

7:THE ASSISTANT SETTLEMENT OFFICER
PHULONI REVENUE CIRCLE
KARBI ANGLONG AUTONOMOUS COUNCIL
ASSAM
PIN-782460

8:THE ASSISTANT REVENUE OFFICER
PHULONI REVENUE CIRCLE
KARBI ANGLONG AUTONOMOUS COUNCIL
ASSAM
PIN-782460

9:THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
REPRESENTED BY ITS CHAIRMAN
G5 AND 6
SECTOR 10
DWARKA
NEW DELHI-110075

10:SMTI ILABATI DEB
W/O LATE SADHAN DEV
R/O VILL- HOWRAGHAT TINIALI
MOUZA-LANGPHER
P.O.-KACHUPUKHURI
P.S.-HOWRAGHAT
DIST-KARBI ANGLONG
ASSAM
PIN- 782482

11:SUDAMA DEB
S/O LATE SADHAN DEV
R/O VILL- HOWRAGHAT TINIALI
MOUZA-LANGPHER
P.O.-KACHUPUKHURI
P.S.-HOWRAGHAT
DIST-KARBI ANGLONG
ASSAM
PIN- 782482

12:HARIPAD DEB
S/O LATE SADHAN DEV
R/O VILL- HOWRAGHAT TINIALI
MOUZA-LANGPHER
P.O.-KACHUPUKHURI
P.S.-HOWRAGHAT
DIST-KARBI ANGLONG
ASSAM
PIN- 782482

13:SATYAJIT DEB
S/O LATE SADHAN DEV
R/O VILL- HOWRAGHAT TINIALI
MOUZA-LANGPHER
P.O.-KACHUPUKHURI
P.S.-HOWRAGHAT
DIST-KARBI ANGLONG
ASSAM
PIN- 78248

Advocate for the Petitioner : MR. R K TALUKDAR

Advocate for the Respondent : SC, GAD

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 16/10/2023

Heard Mr. R.K. Talukdar, learned counsel appearing for the writ petitioner. Also heard Mr. B. Gogoi, learned Standing Counsel, General Administration Department, Assam, appearing for the respondent no. 1, Ms. N. Bordoloi, learned Standing Counsel, Revenue and Disaster Management Department, Assam, representing the respondent no. 2. Also heard Ms. S. Kemprai, learned Standing Counsel, KAAC appearing on behalf of the respondent nos. 3, 4, 5, 7 & 8, Ms. M. Barman, learned Government Advocate, Assam present on behalf of the respondent no. 6 and Mr. R. Boro, learned counsel appearing on behalf of the respondent no. 9. Mr. G. Alom, learned counsel has appeared on behalf of all the private respondents.

The issue involved in this writ petition pertains to the order dated 19/04/2023 passed by the learned Arbitrator-cum-Commissioner, Central Assam Division, Nagaon, restraining the authorities from demolishing the building of the private respondents on the ground that the valuation of the building and the trees and plants standing there upon have not been properly assessed.

It is the case of the writ petitioners that the operation of the interim order dated 19/04/2023 is causing delay in completion of the work of construction of the National Highway. Since the post of Arbitrator appointed under section 3G(5) of the National Highways Act, 1956 has in the meantime been abolished, hence, unless an order is passed by this Court vacating/modifying the interim order dated 19/04/2023, the construction of National Highway would be jeopardized.

The learned counsel for the parties have invited the attention of this Court to the order dated 28/09/2023 passed by the Division Bench of this Court in WA 375/2023, whereby, directions have been issued to the Valuation Officer as well as the CPWD authorities to carry out necessary assessment and submit a report. The operating portion of the order dated 28/09/2023 is reproduced herein below for ready reference :-

“It may be stated herein that in the intervening period the post of Arbitrator has been abolished and, thus, the proceedings before the Arbitrator are stalled thereby

construction/widening of the Highway in question has been adversely affected.

In view of the peculiar facts narrated above, it is hereby directed that copy of this order shall be presented to the Valuation Officer, Central Public Works Department (CPWD).

Copy of this order be provided to the competent authority in the CPWD within two days, whereupon the CPWD authority shall appoint a suitable date for the valuation of the property within the next five days. The valuation shall be carried out in terms of the order dated 02.05.2023, passed by the Arbitrator.

The appellants herein and the representative(s) of the NHIDCL may remain present and shall be permitted to append their signatory during the measurement as well as in the valuation proceedings.

The ad-interim stay order dated 19.04.2023 passed by the Arbitrator shall stand vacated after the valuation report is prepared and presented in the arbitration proceedings.

Writ appeal stands disposed of in terms of the above observations and directions.”

The order dated 28/09/2023 has been passed in a proceeding arising out this writ petition. As such, in view of the above order, nothing further survives for adjudication in this writ petition. The learned counsel for the parties have also fairly agreed to the same.

This writ petition, therefore, stands disposed of in terms of the order dated 28/09/2023 passed by the Division Bench in WA No. 375/2023.

JUDGE

sukhamay

Comparing Assistant