

GAHC010212152023



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

Case No. : I.A.(Civil)/2837/2023

SMTI ILABATI DEB AND 3 ORS.
W/O LATE SADHAN DEV, R/O VILL- HOWRAGHAT TINIALI, MOUZA-
LANGPHER, P.O.-KACHUPUKHURI, P.S.-HOWRAGHAT, DIST-KARBI
ANGLONG, ASSAM, PIN- 782482

2: SUDHAMA 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

3: 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

4: 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

VERSUS

UNION OF INDIA AND 12 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-782460

5:THE STATE OF ASSAM

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

6:THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

REVENUE AND DISASTER MANAGEMENT DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006

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

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

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

10:THE DISTRICT COMMISSIONER
KARBI ANGLONG AUTONOMOUS COUNCIL
ASSAM
PIN-782460

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

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

13:THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
REPRESENTED BY ITS CHAIRMAN
G5 AND 6
SECTOR 10
DWARKA
NEW DELHI-11007

For the Applicant(s)

: Mr. G. Alam, Advocate

For the Respondent(s)	: Mr. R. K. Talukdar, Advocate
	: Mr. J. Chutia, Advocate
	: Mr. C. Baruah, SC, NHA
	: Mr. B. Gogoi, Standing Counsel
	: Ms. P. R. Mahanta, SC, Revenue Department
	: Mr. U. Das, Government Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 18.09.2023

1. The instant application has been filed by the Applicants who are the Respondent Nos. 10 to 13 seeking vacation/modification/alteration of the order dated 13.09.2023 passed by this Court in WP(C) No.5205/2023 and further seeking a direction upon the Authority indicated in the order dated 02.05.2023 to assess the market value of the Applicants' residential houses and structures standing in Dag No.203 of K.P. Patta No.63 under Mouza Langpher in the District of Karbi Anglong, Assam or alternatively, the aforesaid may be assessed by any other independent authority.

2. This Court vide an order dated 13.09.2023 had stayed the interim order passed by the learned Arbitrator dated 19.04.2023 only to the extent wherein there was a direction to the Respondent Authorities not to demolish the residential houses, structures and trees on the land covered by Dag No.203 of K.P. Patta No.63. This Court had done so taking into account that by virtue of Section 3D of the National Highways Act, 1956 and more particularly, Sub-Section (2) of Section 3D of the said Act, the land vest absolutely in the Central Government free from all encumbrances with the publication of the declaration made under Section 3D of the National Highways Act, 1956. This Court had also

passed the interim order taking into account that the Applicants/Respondent Nos. 10 to 13 have not challenged the acquisition proceedings but rather had approached the Arbitrator under Section 3G(5) on account of inadequacy of the compensation and have sought for enhancement of the said amount. This Court had also taken note of that in view of the restraint order passed on 19.04.2023 by the learned Arbitrator in the arbitration proceedings, it has resulted in the ongoing construction works be stalled thereby affecting the public interest which in effect would lead to escalation of the prices.

3. During the course of hearing, this Court had put a specific query upon Mr. G. Alam, the learned counsel appearing on behalf of the Applicants/Respondent Nos. 10 to 13 as to whether the Applicants/Respondent Nos. 10 to 13 are willing to indemnify the Petitioners for the loss which would occasion on account of the order dated 19.04.2023 if allowed to remain operational. The learned counsel submits that his clients are not willing to indemnify the Petitioners in that regard.

4. Further to that, this Court had also taken note of that the application so filed by the Applicants i.e. the Respondent Nos. 10 to 13 is for the purpose of enhancing the compensation meaning thereby that the question involved is as to whether the Applicants/Respondent Nos. 10 to 13 would be entitled to an enhanced amount or not. Under such circumstances, as it is a question of money which is involved, it is the opinion of this Court that it would not result in any irreparable loss, harm and injury to the Applicants/Respondent Nos. 10 to 13 if the order dated 19.04.2023 is stayed. Under such circumstances, this Court does not find any grounds for the purpose of modifying/altering/vacating the order dated 13.09.2023 passed in the accompanying writ petition.

5. Before concluding, this Court also finds it relevant to take note of that

during the course of hearing, Mr. G. Alam, the learned counsel appearing on behalf of the Applicants/Respondent Nos. 10 to 13 had submitted that there is a valuation report available as regards the houses standing over the lands in question. Mr. J. Chutia, the learned counsel appearing on behalf of the KAAC submits that in terms with Section 29 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the competent authority through the Engineer of the Public Works Department of the Government of Assam had duly taken note of the measurement of the houses standing over the land immediately after the declaration made under Section 3D of the National Highways Act, 1956. These are the aspects of the matter are required to be adjudicated upon by the Arbitrator and as such this Court would not like to go into such details which may affect either the Applicants herein or the Respondents during the arbitration proceedings. Both the parties would be at liberty to place such materials before the learned Arbitrator.

6. The accompanying writ petition i.e. WP(C) No.5205/2023 be listed again on 16.10.2023 as directed vide the order dated 13.09.2023.

7. I.A. stands disposed of.

JUDGE

Comparing Assistant