

GAHC010230022023



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

Case No. : WP(C)/5975/2023

RAMESH AGARWALLA
S/O LATE CHIRANJILAL AGARWALLA,
VILL.- NAGAON, MOUZA- KHUMTAI, P.O.- KHUMTAI, P.S.- KAMAGAON-
GOLAGHAT- 785619.

VERSUS

THE DEPUTY COMMISSIONER, GOLAGHAT AND 6 ORS.
DIST.- GOLAGHAT, ASSAM.

2:THE ADDITIONAL DEPUTY COMMISSIONER (LAND ACQUISITION)
GOLAGHAT
DIST.- GOLAGHAT
ASSAM.

3:THE SUPERINTENDENT OF POLICE
GOLAGAHT
DIST.- GOLAGHAT
ASSAM.

4:THE CIRCLE OFFICER
KHUMTAI REVENUE CIRCLE
KHUMTAI
DIST.- GOLAGHAT
ASSAM.

5:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPTT. (PWD)
SIVASAGAR MUNICIPAL BOARD
SIVASAGAR REP. BY ITS CHAIRMAN.

6:THE OFFICER IN CHARGE
KHUMTAI POLICE STATION
KHUMTAI
DIST.- GOLAGHAT
ASSAM.

7:SGCCL-ANPL(JV)
A JOINT VENTURE FIRM REP. BY ITS PROJECT MANAGER AND ONE OF
ITS VENTURE PARTNER
ANPL IS HAVING OFFICE AT 7TH FLOOR
CENTRO BUILDING
R G BARUA ROAD
GUWAHATI

Advocate for the Petitioner : MR. R DUBEY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

06.10.2023

Heard Mr. R. Dubey, learned counsel for the petitioner. Also heard Mr. N.

Goswami, learned Govt. Advocate, Assam appearing for the respondent Nos.1 to 6.

The writ petitioner herein is admittedly in possession of land which is partly covered by Government dag and partly forms private land. Aggrieved by the action initiated by the respondent Nos.4 and 7 leading to demolition of the boundary wall of the petitioner, the instant writ petition has been filed *inter-alia* contending that the authorities are seeking to take over the land of the petitioner for construction of a road without following the due process of law or

serving any prior notice upon the writ petitioner. It is also the contention of Mr. Dubey that in respect of the private patta land owned by the petitioner there is neither any demarcation of the land nor have the authorities informed him as to the amount of compensation that would be payable to the petitioner, for acquisition of the land.

Mr. N. Goswami, learned Govt. Advocate, Assam appearing for the official respondents, on the other hand, submits that the petitioner will be duly compensated if his land is damaged and/or taken over for construction of the road. However, the petitioner cannot claim any right over the Government khas land in his possession.

After taking note of the submissions made at the bar and upon going through the pleadings, this writ petition stands disposed of at the stage of motion hearing by providing that the official respondents shall not disturb the possession of the petitioner over the private patta land under his occupation without following due process of law and serving proper notice intimating him, as to the procedure adopted for acquiring the aforesaid land. However, no such embargo will be applicable in respect of any land under the occupation of the petitioner which is Government land. In other words, it is made clear that it will be open for the respondents to go ahead with demolition and/or taking over possession of Government land, if any, under the occupation of the petitioner for the purpose of construction of the road, but they shall not disturb the possession of the petitioner in respect of private patta land under his occupation without following the due process of law. It is also made clear that if any further demolition is proposed, the concerned Circle Officer would first demarcate the land of the petitioner so as to segregate it from the Government

land and only thereafter, proceed with the matter.

With the above observation, the writ petition stands disposed of.

JUDGE

Comparing Assistant