

GAHC010258942017



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

Case No. : W.P.(C) NO. 6299/2017

1. Mun Das

S/o- Late Girish Chandra Das,

Village - Islampara,

P.O. - Jogighopa, District -Bongaigaon, Assam

2. Uttam Ray

S/o – Sarbeswar Das

Village – Koreya Pahar

P.O. – Jogighopa,

District – Bongaigaon, Assam.

3. Munjuwala Ray

D/o Dhananjoy Ray

Village – Deohat, Ward No. 3,

P.O. Abhayapuri

District – Bongaigaon, Assam.

4. Monir Uddin

S/o Late Gorajuddin,

Village – Bhatipara,

P.O. Jogighopa,

District – Bongaigaon, Assam.

5. Mohibul Hussain,
S/o Late Giasuddin
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

6. Abdul Hoque,
S/o Abdul Mozid Sheikh,
Village – Kabaitari Part-IV,
P.O. Jogighopa,
District – Bongaigaon, Assam.

7. Rasidul Islam,
S/o Late Soleman Sheikh,
P.O. Jogighopa,
District – Bongaigaon, Assam.

8. Sukurun Bewa,
D/o Guljan Nessa Bibi,
Village – Koreya Pahar,
P.O. Jogighopa,
District – Bongaigaon, Assam.

9. Nur Jahan,
S/o Ful Mamud Sheikh,
Village – Kabaitari,
P.O. Jogighopa,
District – Bongaigaon, Assam.

10. Dilip Kumar Chakraborty,
S/o Satish Chandra Chakraborty,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

11. Joytimoy Chakraborty,
S/o Late Nareshwar Chakraborty,
Village – Boitamari,
P.O. Moligaon,
District – Bongaigaon, Assam.

12. Sharjani Roy
W/o Nagendra Chandra Roy,
Village – Islampara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

13. Shahazamal Sheikh,
Village – Kabaitari,
P.O. Jogighopa,
District – Bongaigaon, Assam.

14. Nur Saheb,
S/o Late Nur Uddin Ahmed,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

15. Josim Uddin,
S/o Late Keramod Ali,

Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

16. Nasir Uddin Ahmed,
S/o Late Siraj Uddin Ahmed,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

17. Sajeda Begum,
D/o Soriful Hussain,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

18. Arman Ali,
S/o Late Kamal Uddin,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

19. Dipak Das,
S/o Ruplal Das,
Village – Chalantapara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

20. Ramesha Chandra Chakraborty,
S/o Late Satish Chandra Chakraborty,
Village – Jogighopa,

P.O. Jogighopa,
District – Bongaigaon, Assam.

21. Abdul Rashid,
S/o Ali Hussain,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

22. Satya Das,
S/o Ram Das Das,
Village – Abhayapuri Ward No. 3,
P.O. Jogighopa,
District – Bongaigaon, Assam.

23. Hadi Hussain,
S/o Akbar Ali Ahmed,
Village – Tengnamari,
P.O. Jogighopa,
District – Bongaigaon, Assam.

24. Rohima Bewa,
W/o Jamir Uddin,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

25. Samsul Zaman,
S/o Maizuddin Sheikh,
Village – Islampara,
P.O. Jogighopa,

District – Bongaigaon, Assam.

26. Idrish Ali,
S/o Sahabudin,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

27. Abul Motin,
S/o Mohammad Ali,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

28. Abdul Alam,
S/o Late Hesab Uddin,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

29. Ayub Ali,
S/o Late Abdul Halim,
P.O. Jogighopa,
District – Bongaigaon, Assam.

30. Muktar Hussain,
S/o Jolai Mamud,
Village – Koreya Pahar,
P.O. Jogighopa,
District – Bongaigaon, Assam.

31. Halima Begum,
S/o Late Abdul Hamid,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

32. Abdul Kalam Ali,
S/o Late Wazuddin Ahmed,
Village – Kabaitari,
P.O. Jogighopa,
District – Bongaigaon, Assam.

33. Monsur Ali,
S/o Late Sofir Uddin Sheikh,
Village – Islampur,
P.O. Jogighopa,
District – Bongaigaon, Assam.

34. Mozir Uddin,
C/o Abdul Motin,
Village – Kabaitari,
P.O. Jogighopa,
District – Bongaigaon, Assam.

35. Khairuz Zaman,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

36. Pabitra Singha,
S/o Late Atul Chandra Singha,

Village – Jogighopa,
P.O. Jogighopa,
District – Bongaigaon, Assam.

37. Sokbari Sheikh,
S/o Late Giasuddin,
Village – Jogighopa,
P.O. Jogighopa,
District – Bongaigaon, Assam.

38. Nagendra Chadra Ray,
C/o Baneswar Roy,
Village – Jogighopa,
P.O. Jogighopa,
District – Bongaigaon, Assam.

39. Sobur Ali,
S/o Late Gopal Sheikh,
P.O. Jogighopa,
District – Bongaigaon, Assam.

40. Abdur Rahim,
S/o Late Nasiruddin Sheikh,
Village – Bhatipara,
P.O. Jogighopa,
District – Bongaigaon, Assam.

.....Petitioners

-Versus-

1. The Union of India
Represented by the Ministry of Revenue Department,

New Delhi-1.

2. The Secretary
to the Government of India,
Railway Department,
New Delhi-1.

3. The General Manager,
N.F. Railway, Maligaon,
Guwahati, Assam.

4. The Secretary
to the Government of India,
Finance Department,
New Delhi-1.

5. The Secretary
to the Government of India,
C.W.T. Department, New Delhi-1.

6. The State of Assam
Represented by the Chief Secretary
To The Government of Assam,
Dispur, Guwahati-6.

7. The Commissioner and Secretary
Finance Department,
Government of Assam, Dispur, Guwahati-6.

8. The Commissioner and Secretary
to the Government of Assam,

I.W.T. Department, Dispur,
Guwahati-6.

9. The Commissioner and Secretary
to the Government of Assam,
P.W.D. Department, Dispur, Guwahati-6.

10. The Deputy Commissioner, Goalpara, Assam.

11. The Deputy Commissioner, Bongaigaon, Assam.

12. The S.D.O. (C) N/S Abhayapuri,
District – Bongaigaon, Assam.

13. The Circle Officer,
Boitamari Revenue Circle,
Boitamari.

14. The Secretary,
Inland Waterways Authority of India A-13,
Sector-1, Noida, UP-201301.

15. The Director,
Inland Waterways Authority of India,
Pandu Port Complex, Pandu,
Guwahati-781012.

16. National Highways and Infrastructure
Development Corporation Ltd.,
Represented by its Managing Director,
At 3rd Floor, PTI Building 4,

Parliament Street, New Delhi-110001.

17. Deputy General Manager [Infra]
National Highways and Infrastructure
Development Corporation Ltd.,
Site Office – Jogighopa,
House No. 279, Islampur,
P.S. Jogighopa,
District – Bongaigaon, Assam-783382.

18. The Commissioner and Secretary
to the Government of Assam
in the Revenue and Disaster Management Department

.....Respondents

Advocates :

Petitioners

Mr. A. Wahab, Advocate

Respondent nos. 2 & 3

Mr. G. Goswami, learned Retainer Counsel, N.F. Railway

Respondent nos. 6, 10, 11, 12 & 13

Ms. N. Goswami, learned Junior Government Advocate, Assam

Respondent no. 18

Mr. P.R. Mahanta, learned Standing Counsel, Revenue Department

Respondent nos. 14 & 15

Mr. S.C. Keyal, learned Standing Counsel, Inland Waterways Authority of India

Respondent nos. 16 & 17

Mr. C. Baruah, Advocate, National Highways and Infrastructure Development Corporation
Limited

Date of Hearing and Judgment & Order : 02.03.2023

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
JUDGMENT

Heard Mr. A. Wahab, learned counsel for the petitioners. Also heard Mr. G. Goswami, learned Retainer Counsel, N.F. Railway for the respondent nos. 2 & 3; Ms. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 6, 10, 11, 12 & 13; Mr. P.R. Mahanta, learned Standing Counsel, Revenue Department for the respondent no. 18; Mr. S.C. Keyal, learned Standing Counsel, Inland Waterways Authority of India for the respondent nos. 14 & 15; and Mr. C. Baruah, learned counsel for the respondent National Highways and Infrastructure Development Corporation Limited [NHIDCL] authorities for the respondent nos. 16 & 17.

2. As the genesis of the present litigation is a notice issued under Section 29 of the Defence of India Act, 1962, it is apposite to look into the relevant provisions of the Defence of India Act, 1962 at first. The Defence of India Act, 1962 [Act no. 51 of 1962] is an Act to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith. Chapter VI of the Defence of India Act, 1962 pertains to requisitioning and acquisition of immovable property. Section 29 of the Defence of India Act, 1962 has provided for requisitioning of immovable property. Sub-section [1] of Section 29 which is with a non-obstante clause, has provided that notwithstanding anything contained in any other law for the time being in force, if in the opinion of the Central Government or the State Government it is necessary or expedient so to do for securing the defence of India, civil defence, public safety, maintenance of public order or efficient conduct of military operations, or for maintaining supplies and

services essential to the life of the community, that Government may by order in writing requisition any immovable property and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning, provided that no property or part thereof which is exclusively used by the public for religious worship shall be requisitioned. Section 29 [2] of the Defence of India Act, 1962 has mentioned that the requisition shall be effected by an order in writing addressed to the person deemed by the Central Government or the State Government, as the case may be, to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

3. Section 30 of the Defence of India Act, 1962 has provided for compensation to persons interested and it states that whenever in pursuance of Section 29 the Central Government or the State Government, as the case may be, requisitions any immovable property, there shall be paid to the persons interested compensations the amounts of which shall be determined by taking into consideration the factors mentioned therein. It has further provided that where any person interested is aggrieved by the amount of compensation so determined, makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an Arbitrator, the amount of compensation to be paid shall be such as the Arbitrator appointed in that behalf by the Central Government or the State Government, as the case may be, may determine. The Explanation to Section 30 has provided explanation about the expression, 'person interested'. As per Section 33 of the Defence of India Act, 1962, any person remaining in possession of any requisitioned property in contravention of any order made under Section 29 may be summarily evicted from the property by any officer

empowered in that behalf by the Central Government or the State Government, as the case may be. Section 36 of the Defence of India Act, 1962 has provided for the mode and manner of acquisition of requisitioned property. Section 37 [1] of the Defence of India Act, 1962 has provided for compensation for acquisition of requisitioned property amount and the mode of determination of compensation. Section 37[2] of the Defence of India Act, 1962 has provided that where any person interested is aggrieved by the amount of compensation determined in accordance with sub-section [1] of Section 37, he may make an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an Arbitrator appointed in that behalf by the Central Government or the State Government, and the amount of compensation to be paid shall be such as may be determined by the Arbitrator in accordance with sub-section [1] of Section 37.

4. As regards the factual matrix involved in the writ petition, it is noticed that for the purpose of construction of an Inland Port at Jogighopa, a process of requisition of land was initiated in the 1960s and in that connection, a land acquisition case, L.A. Case no. 26/1965-1966 was registered. M/s Central Inland Water Transport Corporation [CIWTC] Ltd. was the requiring authority then. As per the notice issued under Section 29[1] of the Defence of India Act, 1962 vide no. 2393-2512 LA dated 30.03.1966 under the hand of the Sub-Divisional Officer, Goalpara, the Sub-Divisional Officer, Goalpara had declared that the parcels of land described therein, were requisitioned under Section 29[1] of the Defence of India Act, 1962. The requisitioning was made in exercise of the powers conferred on the Sub-Divisional Officer, Goalpara under Section 29[1] of the Defence of India Act, 1962 vide Notification no. RLQ.68/62/33 dated 28.03.1963. By the notice dated 30.03.1966, the Sub-Divisional Officer,

Goalpara authorized the Sub-Deputy Collector [SDC], Land Acquisition, Goalpara to take over the parcels of land mentioned therein on 08.04.1966 and hand over the same to the Executive Engineer, Jogighopa Port Construction Division, Abhayapuri on 08.04.1966. Included amongst the parcels of land so requisitioned, were parcels of land measuring 154 Bighas, 4 Kathas and 8 Lessas [154B-04K-08L], more or less, located in Village – Joghighopa and Bhatipara, more fully described in the notice dated 30.03.1996. The subject-matter of this writ petition is relatable to those parcels of land measuring 154B-04K-08L.

5. It is noticed from a letter bearing no. BMC-21/2010/21 dated 07.06.2011 of the Circle Officer, Boitamari Revenue Circle, Boitamari that the compensation amounts determined in the proceedings of L.A. Case no. 26/1965-1966 were paid to the concerned pattadars and the possession of the parcel of land measuring 154B-04K-08L were also handed over to the Executive Engineer, Jogighopa Port Construction Division, Abhayapuri on 09.04.1966.

6. For the subsequent events, the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 r/w the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968 were applied.

7. The Requisitioning and Acquisition of Immovable Property Act, 1952 [‘the Act, 1952’ or ‘the 1952 Act’, for short] is an Act to provide for the requisitioning and acquisition of immovable property for the purposes of the Union. The power to acquire requisitioning property is provided under Section 7 of the Act, 1952. As per Section 7[1] of the 1952 Act, where any property is subject to requisition, the Central Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by following

the procedure laid down therein. Section 8 of the Act, 1952 has set forth the principles and method of determining compensation in case of properties requisitioned or acquired. Section 8[1] of the Act, 1952 has **inter alia** provided that where any property is requisitioned or acquired under the 1952 Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles set forth therein, that is, to say **inter alia** [a] where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement; and [b] where no such agreement can be reached, the Central Government shall appoint as Arbitrator a person who has the qualification provided therein. As per Section 8[1][d], the Government and the person to be compensated shall, at the commencement of the proceedings before the Arbitrator, state what in their respective opinion is a fair amount of compensation. The Arbitrator so appointed, shall under Section 8[1][e], after hearing the dispute, make an Award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the Award, he shall have regard to the circumstances of each case. Sub-section [3] of Section 8 has prescribed that the compensation payable for the acquisition of any property under Section 7 shall be the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and sold on the date of acquisition. According to Section 9 of the Act, 1952, the amount of compensation payable under an Award shall be paid by the Competent Authority to the person or persons entitled thereto as specified in the award.

8. By the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968, a new Section 25 came to be inserted in the Requisitioning and

Acquisition of Immovable Property Act, 1952. For ready reference, Section 25 inserted by the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968 is quoted herein below :

25. [1] Notwithstanding anything contained in this Act, any immovable property requisitioned by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, under the Defence of India, Act, 1962, and the rules made thereunder [including any immovable property deemed to have been requisitioned under the said Act] which has not been released from such requisition before the 10th January, 1968, shall, as from that date, be deemed to have been requisitioned by the competent authority under the provisions of this Act for the purpose for which such property was held immediately before the said date and all the provisions of this Act shall apply accordingly :

Provided that -

[a] all determinations, agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the said date and in force immediately before the said date, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition as from the said date;

[b] anything done or any action taken [including any orders, notifications or rules made or issued] by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, in exercise of the powers conferred by or under Chapter VI of the Defence of India Act, 1962, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this section was in force on the date on which such thing was done or action was taken.

[2] Save as otherwise provided in sub-section [1], the provisions of the Defence of India Act, 1962, and the rules made thereunder, in so far as those provisions relate to the requisitioning of any such immovable property as is referred to in sub-section [1], shall

as from the 10th January, 1968, cease to operate except as respects things done or omitted to be done before such cesser and Section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act.

8.1. As per the newly inserted Section 25, Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968 which is with a non-obstante clause, any immovable property requisitioned by the Central Government or by any officer or authority to whom powers in its behalf have been delegated by the Government, under the Defence of India Act, 1962 and the rules made thereunder [including any immovable property deemed to have been requisitioned under the Defence of India Act, 1962] which has not been released from such requisition before the date 10.01.1968, shall, as from that date, be deemed to have been requisitioned by the Competent Authority under the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 for the purpose for which such property was held immediately before the date, 10.01.1968 and all the provisions of the Act, 1952 shall apply accordingly. The proviso [a] to Section 25 of the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968 has provided that all determinations, agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the said date [10.01.1968] and in force immediately before the said date [10.01.1968], shall continue to be in force and shall apply to the payment of compensation in respect of those properties for any period of requisition as from the said date. Sub-section [2] of Section 25 has provided that save as otherwise provided in sub-section [1] of the Section 25, the provisions of the Defence of India Act, 1962 and all rules made thereunder, shall cease to operate, subject to conditions mentioned therein. Thus, in essence, the provisions of the Defence of India, 1962 in so far

as the requisition/acquisition of parcels of land measuring 154B-04K-08L, more or less, are concerned, the same ceased to operate with the coming into force of newly inserted Section 25 in the Requisitioning and Acquisition of Immovable Property Act, 1952 by the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968.

9. From the contents of the Award dated 11.03.1983 of the learned District Judge, Goalpara at Dhubri, it has emerged that he came to be appointed as the Arbitrator under Section 8[1][b] of the Requisitioning and Acquisition of Immovable Property Act, 1952 r/w the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968 vide a Notification no. RLA.206/68/pt.III/02 dated 14.09.1977 by the Government of Assam to arbitrate in the matter of amount of compensation payable to the pattadars whose lands were **acquired** in the course of proceedings of L.A. Case no. 26/1965-1966.

10. Being aggrieved by the amounts of compensation assessed by the State Government for acquisition of their parcels of land, which were part of 154B-04K-08L, some of the pattadars approached the Court of learned District Judge, Goalpara at Dhubri [the Arbitrator] for redressal of their grievances with the prayer to grant them compensation amounts as per the then prevailing market value of the acquired land. By a Notification bearing no. RLA.206/68/pt.III/02 dated 14.09.1977, as already noted above, the Government of Assam appointed the District Judge, Goalpara at Dhubri as the Arbitrator under Section 8[I][b], Requisitioning & Acquisition of Immovable Property Act, 1952 read with the Requisitioning & Acquisition of Immovable Property [Amendment] Act, 1968 to

arbitrate in the matter of amounts of compensation payable to the pattadars whose lands were acquired in the course of proceedings of L.A. Case no. 26/65-66. The learned District Judge, Goalpara at Dhubri considered a total of 47 nos. of applications [Misc. [LA] Case No. 36/1971, Misc. [LA] Case No. 37/1971, Misc. [LA] Case No. 38/1971, Misc. [LA] Case No. 39/1971, Misc. [LA] Case No. 40/1971, Misc. [LA] Case No. 41/1971, Misc. [LA] Case No. 42/1971, Misc. [LA] Case No. 43/1971, Misc. [LA] Case No. 44/1971, Misc. [LA] Case No. 45/1971, Misc. [LA] Case No. 46/1971, Misc. [LA] Case No. 48/1971, Misc. [LA] Case No. 49/1971, Misc. [LA] Case No. 50/1971, Misc. [LA] Case No. 57/1971, Misc. [LA] Case No. 51/1971, Misc. [LA] Case No. 52/1971, Misc. [LA] Case No. 54/1971, Misc. [LA] Case No. 55/1971, Misc. [LA] Case No. 56/1971, Misc. [LA] Case No. 61/1971, Misc. [LA] Case No. 62/1971, Misc. [LA] Case No. 63/1971, Misc. [LA] Case No. 64/1971, Misc. [LA] Case No. 65/1971, Misc. [LA] Case No. 66/1971, Misc. [LA] Case No. 67/1971, Misc. [LA] Case No. 68/1971, Misc. [LA] Case No. 69/1971, Misc. [LA] Case No. 70/1971, Misc. [LA] Case No. 71/1971, Misc. [LA] Case No. 72/1971, Misc. [LA] Case No. 73/1971, Misc. [LA] Case No. 74/1971, Misc. [LA] Case No. 75/1971, Misc. [LA] Case No. 76/1971, Misc. [LA] Case No. 77/1971, Misc. [LA] Case No. 78/1971, Misc. [LA] Case No. 80/1971, Misc. [LA] Case No. 82/1971, Misc. [LA] Case No. 83/1971, Misc. [LA] Case No. 47/1971] preferred for enhanced compensation amounts together by registering one case as Misc [Arb] Case no. 4 of 1978. The details of the Misc [L/A] applications would be adverted to in the later part of this order.

11. On appearance of the parties in respect of those 47 nos. of applications registered under different numbers as Misc [L/A] cases, the learned District Judge, Goalpara at Dhubri as the Arbitrator framed the following number of issues :-

- 1.** Whether the acquired lands have been properly classified and valued ?
- 2.** Whether the lands have been valued without reference to sale deeds or other evidences adduced before the Collector ?
- 3.** What is the proper value of the land acquired ?
- 4.** To what relief, if any, are the petitioners entitled ?

12. In the course of the proceedings of Misc [Arb] Case no. 4 of 1978, the District Judge, Goalpara at Dhubri as the Arbitrator examined witnesses and heard arguments of the parties.

13. With regard to the issue no. [1], the Arbitrator held that the lands were not properly classified by the Government at the time of acquisition. In so far as the issue no. [2] is concerned, it was held that the lands had been valued without reference to sale deeds or other evidence adduced before the Collector. The issue no. [3] and the issue no. [4] were considered together. By a common Award dated 11.03.1983, the District Judge, Goalpara at Dhubri [the Arbitrator] disposed of the afore-mentioned 47 nos. of Misc [L/A] cases by awarding ₹ 30,000/- per bigha for Chandiana category of land at Jogighopa. As regards the Viti category of land [Homestead-Land], the Arbitrator awarded a sum of ₹ 3,000/- per bigha. As regards Sali category of land, a sum of ₹ 2,500/- per bigha was awarded for agricultural land. A lumpsum amount of ₹ 200/- was awarded to those petitioners whose homestead lands were acquired, towards trees and plants. The learned District Judge, Goalpara at Dhubri [the Arbitrator] had further observed that the amount would carry an interest @ 6% per annum over the excess of the Collector's Award from the date of taking over possession of the lands.

14. Pursuant to the Award dated 11.03.1983 passed by the learned District Judge, Goalpara at Dhubri [the Arbitrator] in Misc [Arb] Case no. 4 of 1978, the Sub-Divisional Officer [Civil] & Collector had prepared a consolidated estimate @ ₹ 8,12,342/- and submitted the same to the Public Works Department, Assam vide a letter bearing no. NSRQ.46/76/312 dated 24.10.1990 of the Sub-Divisional Officer [Civil] for payment to the decree holders/affected pattadars.

15. The petitioners herein, 40 [forty] in nos., have claimed themselves to be either the petitioners or the successors-in-interests of the petitioners in the Misc [L/A] cases preferred before the District Judge, Goalpara at Dhubri [the Arbitrator], which were decided by the Award dated 11.03.1983. The main grievance of the petitioners was that despite passing of the Award dated 11.03.1983, they were not paid the enhanced compensation amounts by the respondent authorities. According to them, they had submitted Representations before the Sub-Divisional Officer [Civil], Abhayapuri; and the General Manager, North East Frontier Railway [N.F. Railway], Maligaon, Guwahati through an organization, M/s Jogighopa Abhyantarin Bondor Khatigrasta Nagarik Adhikar Sabhaysta Sommittee as their representative. It was on 07.06.2011, the Circle Officer, Boitamari Revenue Circle, Boitamari highlighting the previous events leading to the passing of the Award dated 11.03.1983 and the preparation of the revised estimate in terms of the said Award @ ₹ 8,12,342/-, wrote to the Deputy Commissioner, Bongaigaon [created out of the erstwhile Goalpara district] with the request to take up the matter with the State Government for immediate payment of the decretal amount of ₹ 8,12,342/- with interest @ 6% per annum for the further period onwards at the earliest.

16. After the letter dated 07.06.2011 of the Circle Officer, Boitamari Revenue

Circle, Boitamari, the petitioners or the predecessors-in-interest of the petitioners continued to approach the respondent authorities for disbursal of the enhanced compensation amounts from time to time. When no discernible steps were found to have been taken by the respondent authorities to disburse the enhanced compensation amounts awarded by the Award dated 11.03.1983, the petitioners have stated that they had to approach this Court by the instant writ petition seeking the following reliefs :-

- [i] to pay the compensation of ₹ 8,12,342/- [Rupees Eight Lakhs Twelve Thousand Three Hundred Forty Two] along with 6% interest per annum w.e.f. 08.04.1966 till the payment is made as per the Award dated 11.03.1983 in Misc. [Arb] Case No. 4/1978 and other cases.
- [ii] not to evict the petitioners from the possession of unutilized land in terms of the order dated 30.03.1996 and report on acquired and unutilized land dated 07.06.2011.
- [iii] to provide employment to the family members in any jobs under the schemes of the Inland Ports Works establishment at Jogighopa.
- [iv] to return the unutilized land to the petitioners as per section 35 of the Defense of India Act, 1962.
- [v] to reassess the current valuation and pay the compensation as per current valuation of the land and/or cause or causes being shown upon hearing the parties, on perusal of the records be pleased to make the Rule absolute by providing complete and adequate relief to the petitioners and/or pass such order or orders as Your Lordships may deem fit and proper.

17. During the pendency of the writ petition, the party-respondent no. 14 and the party-respondent no. 15 came to be impleaded in terms of an order dated 07.03.2018 passed in an interlocutory application, I.A.[Civil] no. 375/2018. The

party-respondent no. 16 and the party-respondent no. 17 came to be impleaded pursuant to an order dated 01.10.2021 passed in an interlocutory application, I.A.[Civil] no. 554/2021.

18. From the counter affidavit filed on behalf of the respondent no. 16 and the respondent no. 17, it has emerged that a Memorandum of Understanding [MoU] was entered into between the Ministry of Road Transport and Highways [MoRTH], Government of India [GoI], represented by the National Highways & Infrastructure Development Corporation Limited [NHIDCL], a Government of India Undertaking, on one hand, and the Government of Assam in the Industries & Commerce Department, on the other hand, on 20.10.2020. From the MoU, it has emerged that the Government of India has entrusted the NHIDCL with the development, maintenance and management of a Multi Modal Logistic Park [MMLP] at Jogighopa and the location, Jogighopa has been selected as one of the locations for development of a MMLP under the Bharatmala Parijyotana. The MMLP is envisaged to act as a world class logistic aggregation/disaggregation point for various forms of cargo across all modes, within a single facility. The MMLP comprising road, rail and inland waterway connectivity integrated with warehousing spaces, cold storage facility, etc. is strategically decided to be developed at the location to improve the logistics efficiency and reduce logistics costs. The MMLP is also being set up over a parcel of land measuring approximately 200 acres owned by M/s Ashok Paper Mill [a State Government undertaking].

19. One of the packages included for the project of MMLP is development of external road connectivity of the MMLP from National Highway no. 17 and Inland Water Transport [IWT], Jogighopa, i.e. the project for which the parcels

of land were acquired vide L.A. Case no. 26/1965-1966. In developing the connectivity between the MMLP and the IWT, the existing connectivity of the IWT from the National Highway no. 17, which is presently an intermediate lane, is being developed to a 4-lane facility and a new connectivity is being developed from the IWT to the National Highway no. 17 to the MMLP. A part of the land falling in the alignment of this connectivity are the plots of land for which the compensation amounts had already been determined by the Award dated 11.03.1983. As per the revenue records, the land parcels have been invested in the name of Inland Port. The work for the development of MMLP could not progress in the desired manner as few parcels of land, vested in the name of Inland Port of the IWT, after acquisition, which fall on the way of the proposed external road connectivity, are under encroachment.

20. It has emerged from the materials on record that in a meeting held on 29.01.2019 under the Chairmanship of the Member [Finance], IWAI and attended by various stakeholders of the Inland Water Transport [IWT], a decision was taken to provide assistance for alignment of connectivity and access to the Inland Port of the Inland Water Transport [IWT]. The said meeting was followed by another meeting on 02.07.2019, which was convened on the basis of a Record Note of Site Inspection of the Special Secretary [Logistics], Ministry of Commerce, Government of India. The meeting was held primarily on the subject of payment of compensation. The meeting noted that the compensation amounts of the acquired lands were not paid to the persons interested in spite of the Arbitral Award as funds had not been released by the requiring authority viz. the erstwhile CIWTC Ltd. It was further observed that the present owner being IWAI must take steps to settle the compensation issue at the earliest with further observation that though the State Government was

pursuing the litigation as the acquiring authority, the IWAI as the beneficiary needed to ensure that the process of acquisition was completed. It was further observed that no development had taken place for resolving the litigation and as a result, the execution of the work regarding connectivity got delayed with stiff opposition being encountered from the residents of these parcels of land.

21. It was pursuant to the observations made in the meeting held on 02.07.2019 to the effect that the compensation amounts in respect of the acquired lands were not paid to the persons interested in spite of Arbitral Award and the IWAI as the beneficiary required to ensure that the process of acquisition be completed, the respondent authorities in the IWAI on behalf of the erstwhile CIWTC started to take steps for resolution of the dispute raised by these petitioners regarding non-disbursal of the compensation amounts in terms of the Award dated 11.03.1983.

22. From the counter affidavit filed by the respondent IWAI through its Director, Regional Office, Guwahati on 22.11.2021, it is noticed that a survey of the parcels of land acquired on behalf of the erstwhile M/s Central Inland Water Transport Corporation [CIWTC] Ltd. which are looked after at present by the IWAI, was undertaken with the assistance of the Deputy Commissioner, Bongaigaon. The Deputy Commissioner, Bongaigaon had thereafter, identified all the beneficiaries as well as their details in respect of whom the respondent IWAI required to initiate process of transferring the negotiated lump-sum amounts without any delay to ensure timely execution of the works related to the MMLP. From the said communication of the Deputy Commissioner, Bongaigaon, it transpires that a process of negotiation took place between the petitioners who are either the persons interested or successors-in-interest of the

persons interested on one hand and the respondent authorities on the other hand and after process of negotiation, a lump-sum amount for each of the persons interested was arrived at and the Deputy Commissioner, Bongaigaon had thereafter, by a letter dated 14.07.2021, forwarded the list of beneficiaries with their details including their bank details and the amounts arrived at after negotiation, to the Principal Secretary to the Government of Assam, Industries & Commerce.

23. On receipt of the proposal from the Deputy Commissioner, Bongaigaon, the authorities in the IWAI stated to have paid the compensation amounts to the petitioners herein as the persons interested or successors-in-interest of the persons interested in respect of the parcels of land, acquired by the process, initiated by the notice dated 30.03.1966.

24. As per the respondent IWAI authorities, they disbursed the compensation amount through 80 nos. of cheques with 46 of them in favour of the affected pattadars and 34 of them in relation to zirats. According to the respondent IWAI authorities, they had disbursed the compensation amounts, as negotiated, to the petitioners in the following manner :-

Sl. No. of LA Case	Petitioner of LA Case	Misc. (LA) Case No.	Petitioner in W.P. (C) No. 6299/2017	Sl No	Beneficiary Name of Pattadar (Cheque issued	Land Compensation in Rs	Cheque & Date
1	Sri Girish Das	36/1971	Mun Das S/o Girish Ch. Das, PO Jogighopa	1	Bablu Das, Patta Dar- Girish Ch Das , S/o Tarapada Das n/o Mun Das	441000	Cheque No-198301 Dt 5/8/21
2.	Sarbeswari Das	37/1971	Uttam Roy, S/O Sarbeswar Das, PO Jogighopa	2	Nilima Das, Pattadar-Sarbeswar Das W/o Uttam Roy/Uttam Das	99000	Cheque No-198302 Dt 5/8/21
3.	Dhanajay Roy	38/1971	Munjuwala Roy, D/o Dhananjay Roy, Vill Diohat, Ward No.3 PO Abhayapuri	3	Minati Roy, Pattadar-Dhanajay Roy, S/o Gurudas Roy sister of Manjubala Roy	211500	Cheque No-198303 Dt 5/8/21
4.	Hesaruddin	39/1971	Moniruddin, S/o Late	4	i) Hesaruddin Sohrab Ali	315900	Cheque

					S/o Forjuddin S/o Abdul Alam		No-659596 Dt 7/8/21
			Forjuddin, Vill Bhatipara		ii) Hesabuddin S/o Fojaruddin	624600	Cheque No-413358 Dt 7/8/21
5.	Heirs of Late Giasuddin	40/1971	Mohibul Hussain, S/o Giasuddin, Vill Bhatipara P.O. Jogighopa	5	Mohibul Hussain, Pattadar-Giasuddin S/o Asaruddin	126900	Cheque No-198305 Dt 5/8/21
6.	Abdul Mojid Sk	41/1971	Abdul Hoque, S/o Abdul Mazid Saikh	6	Jairul Hoque, Pattadar-Abdul Mozid Shaikh, S/o Lajman Saikh B/o Abdul Hoque	192600	Cheque No-198306 Dt 5/8/21
7.	Heirs of Late NafizBewa	42/1971	Rasidul Islam, S/o Late Soleman Saikh Vill- Jogighopa	7	Jiyaruddin Ahmed, Pattadar-Nazifa Bewa, W/o Sonamullah , B/o Rasidul Islam	95400	Ch No. 198307 Dt. 5.8.21
8.	Goljam Nessa Bibi	43/1971	Sukuran Bewa. W/o Guljan Nesa Bibi, Vill Koreyapahar, PO Jogighopa	8	Sobur Ali, Pattadar Gulzan Nessa Bibi W/o Aschiruddin , Sunuran Bewa D/o Gulzan S/o Sukuran Bewa	242100	Cheque No-198308 Dt 5/8/21
9.	Phul Mamud Sk	44/1971	Nurjahan, W/o Fulmamud Shaikh, Vill Kabaitari, PO -Jogighopa	9	i) Nur Akhtar Hussain, Pattadar-Falmamud Shaikh S/o Nur Akhtar S/o Nurjahan ii) NurJahan is the D/o Fulmamud Shaikh	135000	Cheque No-198310 Dt 5/8/21
10.	Satish Chandra Chakraborty & 4 Ors	45/1971	Dilip Kumar Chakraborty, S/o Satish Ch Chakraborty, Vill -Bhatipara PO Jogighopa	10	Dilip Kumar Chakraborty, Pattadar Satish Ch Chakraborty, S/o Umanath Chakraborty	33030	Cheque No-297121 Dt 5/8/21
11.	Naresh Chandra Chakraborty	46/1971	Jyotirmoy Chakraborty, S/o Late Nareswar Chakraborty, Vill Boitamari PO Maligaon	11	i) Nity Chakraborty, Pattadar-Naresh Ch Chakraborty , S/o Umanath ii)Jyotirmay Chakraborty , Niti Chakraborty B/o Naresh Chkraborty	54000	Cheque No-297122 Dt 5/8/21
13.	Heirs of Late Faharu Ram Roy	48/1971	Sharjani Roy, W/O -Nagendra Roy, villI slampur, PO- Jogighopa	12	i) Dinabandhu Roy, Pattadar-Paharu Ram Roy brother in law of Sharjini Roy, S/o Pulu Ram Roy Brother in law of Sarjini Roy W/o Nagendra Roy is the sister in law of Sarojini Roy	8100	Ch. 297124 dated 5.8.2021
14.	Sahajamal Sk	49/1971	Shahazamal Shaikh Vill Kabaitari , PO jogighopa	13	Kabjan Nessa, Pattadar- Sahjamal Shaikh, S/o Sukna Shaikh, Kabjan Nessa W/o Shazamal Shaikh	354600	Cheque No-297125 Dt 5/8/21
15 and 22	Nur Mohammad	50/1971 &	Nur Saheb S/O Late Nuruddin	14	i)Jamaruddin Ahmed, Pattadar-Nuruddin Ahmed,	i) 150300 ii) 119700	Cheque No-297126

	Ahmed	57/1971	Ahmed Vill-Bhatipara, PO Jogighopa		S/o Sukna Shaikh ii) Nur Saheb is the son Nuruddin Ahmed		Dt 5/8/21
16.	Nuruddin Ahmed	51/1971	Josim Uddin, S/o Late Keramod Ali, Vill-Bhatipara, PO Jogighopa	15	i) Jacimuddin Ahmed, Pattadar-Keramod Ali , S/o Basiruddin	252000	Cheque No-297127 Dt 5/8/21
17 and 18	MdKeramat Ali	52/1971	Nasiruddin Ahmed, S/o Late Sirajuddin Ahmed, Vill- Bhatipara, PO Jogighopa	16	i) Nasiruddin Ahmed, Pattadar-Sirajuddin Ahmed S/o Rashid Mollah ii) Nasiruddin Ahmed S/o Sirajuddin Ahmed	115200	Cheque No-297129 Dt 5/8/21
19	Sariful Hussain	54/1971	Sajeda Begum, D/o Soriful Hussain, Vill- Bhatipara, PO Jogighopa	17	i) Sajeda Begum Pattadar-Sariful Hussain, S/o Mohimuddin ii) Sajeda Begum, D/o Sariful Hussain	207000	Cheque No-297130 Dt 5/8/21
20.	Kamaluddin	55/1971	Arman Ali, S/o Late Kamaluddin , Vill - Bhatipara, PO -Jogighopa	18	i) Akram Ali, Pattadar-Kamaluddin, S/o Rashid Mullah ii) Arman Ali S/o Kamaluddin B/o Arman Ali	70200	Cheque No-297131 Dt 5/8/21
21.	Ruplal Das	56/1971	Dipak Das, S/o Ruplal Das, vill Chalandapara, PO Chalandapara	19	i) Manidra Das, Pattadar-Ruplal Das, S/o Bhot Ram Das ii) Dipak Das is the S/o Ruplal Das Munidra Das B/o Dipak Das	59400	Ch. No. 297132 dated 5.8.21
22.	Satish Ch. chakraborty	61/1971	Ramesh Ch Chakraborty, S/o Late Satish Ch Chakraborty, Vill- Jogighopa PO Jogighopa	20	i) Dilip Kumar Chakraborty, Pattadar-Satish Ch Chakraborty ii) Ramesh Ch Chkraborty S/o Satish Chakraborty Dilip Kumar Chakraborty B/o Ramesh Chandra Chakraborty	318600	Ch. No. 297158 dated 5.8.21
27.	Ali Hussain	62/1971	Abdul Rashid, S/o Ali Hussain Vill-Bhatipara, PO Jogighopa	21	i) Abdul Rashid Pattadar-Ali Hussain, S/o Garbaru Shaikh ii) Abdul Rashid is the S/o Ali Hussain	259200	Cheque No-297137 Dt 5/8/21
28.	Ram Das	63/1971	Satya Das S/o Ram das , Vill Abhayapuri Ward No .3 PO Abhayapuri	22	i) Satya Das, Pattadar-Ram Das, S/o Kalturam Das ii) Satya Das is the S/o Ram Das	39600	Cheque No-297138 Dt 5/8/21
29.	Akbar Ali	64/1971	Hadi Hussain, S/o Akbar Ali Ahmed, Vill-Tengamari, PO Abhayapuri	23	i) Arif Hussain, Pattadar-Akbar Ali Ahmed, S/o Garbaru Shaikh ii) Hadi Hussain, S/o Akbar Ali Ahmed Arif Ali Hussain S/o Hadi Hussain	315000	Cheque No-297139 Dt 5/8/21
30.	Jamiruddin	65/1971	Rohima Bewa,	24	i) Abdul Ruf,	874800	Cheque

			W/o Jamiruddin, Vill Bhatipara, Po -Jogighopa		Pattadar-Zamir Uddin Ahmed, S/o Abdul Rahman ii) Rohima Bewa, W/o Zamiruddin Ahmed Abdul Ruf B/o Rohima Bewa		No-297140 Dt 5/8/21
31.	Maizuddin Sk	66/1971	Samsu IZaman, S/o Maizuddin Shaikh, Vill-Islampur, PO Jogighopa	25	i)Samsul Zaman, Pattadar-Maizuddin Ahmed ii) Samsul Zaman S/o Maizuddin Ahmed Zar	118800	Cheque No-297141 Dt 5/8/21
32.	Sahabuddin	67/1971	Idrish Ali, S/o Sahabuddin, Vill-Bhatipara, Po-Jogighopa	26	i) Siddique Ali, Pattadar – Sahabuddin, S/o Majan Shaikh ii) Idrish Ali is the son of Sahabuddin Siddik Ali B/o Idrish Ali	81900	Cheque No-297142 Dt 5/8/31
33.	Mohammad Ali	68/1971	Abdul Motin, S/o Mohammad Ali, Vill Bhatipara, PO Jogifghopa	27	i) Manchur Ali, Pattadar-Mohammad Ali S/o Nagar Shaikh i B/o AbdulMotin	576000	Ch No. 297143 dated 5.8.21
34.	Heasbuddin	69/1971	Abdul Alam, S/o Hesabuddin, PO Jogighopa	28	i) Sohrab Ali, Pattadar -Hesabuddin ii) Abdul Alam is the S/o Hesabuddin	paid to Hesabuddin	Ch. 659596 dt. 9.8.21
35	Samsuddin	70/1971	Ayub Ali S/o Late Abdul Halim , PO Jogighopa	29	i) Ayub Ali, Pattadar- Samsul Ahmed, S/o Rashid Mollah ii) Abdul Halim, S/o Samsul Ahmed & Ayub Ali S/o Abdul Halim	433800	Cheque No-297144 Dt 5/8/21
36.	Jolay Mamud	71/1971	Mukhtar Hussain, S/o Jolai Mamud, Vill-Koreya Pahar, PO Jogighopa	30	i) Mukhtar Hussain, Pattadar-Jolai Mamud Saikh, S/o Halim Shaukh	61200	Cheque No-297145 Dt 5/8/21
37.	Abdul Hamid	72/1971	Halima Begum, D/o late Abdul Hamid Vill- Bhatipara, PO Jogighopa	31	i) Halima Khatun, Pattadar- Abdul Hamid, S/o Abdul Farman ii) Halima Begum, D/o Abdul Hamid Halima Khatun Halima Begum same person	74700	Cheque No-297146 Dt 5/8/21
38.	Wazudin Ahmed	73/1971	Abdul Kalam Ali , S/o Late Wzidduin Ahmed Vill-Islampur, PO Jogighopa	32	i) Jerifa Alam, Pattadar-Wazauddin Ahmed S/o -Mohimuddin Ahmed ii) Abdul Kalam is s/o Wazuddin Ahmed Jerifa Alam n/o Abdul Kalam Ali	783900	Cheque No-297147 Dt 5/8/21
39.	Safiruddin Sk	74/1971	Monsur Ali, S/o Late Sorifuddin Shaikh, Vill-Islampur, PO Jogighopa	33	i) Samsul Hussain, Pattadar- Safiar Rahman ii) Monsur Ali b/o Samsul Hussain	180900	Cheque No-659598 Dt
40.	Abdul Matin	75/1971	Moziruddin, C/o Abdul Motin, Vill-Kobaitarii, PO Jogighopa	34	i) Khan Abdul Faraque Pattadar -Abdul Motin S/o Jeharuddin ii) Moziruddin is the s/o Abdul MotinKhan Abdul Farokh n/o	1119600	Cheque No-297149 Dt 5/8/21

					Moizuddin		
41	Khairuzzaman	76/1971	Khairuz Zaman, Vill Bhatipara PO Jogighopa	35	Amurul Haque, Pattadar-Khairuz Zaman S/o Maniruddin Amarul Haque S/o Khairuj Zaman	450000	Cheque No-297150 Dt 5/8/21
42.	Atul Ch Singha	77/1971	Pabitra Singha, S/o Late Atul Ch Singha, Vill-Jogighopa, PO Jogighopa	36	Pabitra Kr Singha, Pattadar Atul Ch Singha	699300	Cheque No-297151 Dt 5/8/21
43.	Giasuddin	78/1971	Sokbari Shaikh, S/o Late Giasuddin, Vill-Jogighopa, PO Bhatipara	37	i) Fajjil Islam, Pattadar-Osman Gani Ahmed. S/o Giasuddin ii) Sokbari Saikh is the s/o Giasuddin Fajjil brother of Sokbari	1255500	Cheque No-297152 Dt 5/8/21
44.	Baneswar Roy	80/1971	Nagedra Ch. Roy C/o Baneswar Roy, Vill-Jogighopa, PO-Jogighopa	38	i) Ramprashad Roy, Pattadar- Baneswar Roy, S/o Gabardhan Roy ii) Nagendra Roy is the s/o Baneswar Roy Ram Prasad N/o NagedraCh Roy	651600	Cheque No-297195 Dt 5/8/21
46.	Kharasuri Bewa	82/1971	Sobur Ali, S/o Late Gopal Shaikh, PO-Jogighopa	39	i) Sabur Ali, Pattadar -Khasara Bewa ii) Sobur Ali is the grandson of Khasara Bewa	92700	Cheque No-297156 Dt 5/8/21
47.	Nasiruddin Sk	83/1971	Abdur Rahim, S/o late Nasiruddin, Vill-Batipara, PO-Jogighopa	40	i) Saiful Haque, Pattadar -Nachiruddin Shaikh s/o Hayat Ali ii) Abduln Rahim is the s/o Nasiruddin Sofiul Hoque s/o Abdul Rahim	270900	Cheque No-297157 Dt 5/8/21
		47/1971	Kulada Prashad Chakraborty F/O Kuntal Raj Chakraborty		Paid to Kuntal Raj Chakraborty S/o Kulada Prashad Chakraborty	545400	Ch. No. 297123 dt. 5.8.21
			Dharmeshwar Roy F/O Bubul Roy		Paid to Bubul Roy	665100	Cheque No-198300 Dt 5/8/21
			Khanindra Medhi, S/O Haren Ch Das		Khanindra Medhi	61200	Cheque No-29734 Dt 5/8/21
			Sale Ahmed, S/O Abdul Karim		Selly Ahmad	184500	Cheque No-297136
			Nakib Ahmed, S/O Piyaaruddin		Nekib Ahmad	270000	Cheque No-297135
			Parimola Das, W/O Lt Mohan Das		Parimol Das	76500	Cheque No-297154 Dt 5/8/21

25. Mr. Keyal, learned Standing Counsel, Inland Waterways Authority of India has submitted that the petitioners herein are either persons interested or the

successors-in-interest of the persons interested who are applicants of Misc [L/A] applications, quoted hereinabove in the Table, in Misc [Arb] Case no. 4 of 1978 and all of them have received their respective cheques and have also executed an affidavit each separately to that effect, apart from acknowledging receipt of the respective compensation amounts vide acknowledgement receipt. Mr. Keyal, learned Standing Counsel, Inland Waterways Authority of India [IWAI] has placed copies of the acknowledgement receipts and the affidavits, sworn by each of the 40 [forty] nos. of petitioners wherein they have clearly acknowledged the receipts of their respective compensation amount through cheques and have also undertaken to vacate the parcels of lands which were/are in their possession by relinquishing all their claims and rights in connection with those parcels of lands which were acquired vide L.A. Case no. 26/1965-1966. Mr. Keyal, learned Standing Counsel, ICWAI has further submitted that after executing the acknowledgement receipts and the affidavits, these 40 [forty] nos. of petitioners have vacated the parcels of lands which were the subject-matter of L.A. Case no. 26/1965-1966.

26. Having regard to the issues raised in the writ petition and the facts emerged, as discussed hereinabove, it is found that the grievances of the petitioners with regard to the prayer no. [i] made in the writ petition have been effectively redressed as all the petitioners have received compensation amounts in terms of the Award dated 11.03.1983 passed by the learned District Judge, Goalpara at Dhubri [the Arbitrator] and on receipt of the compensation amounts, the petitioners have themselves subscribed their signatures in the acknowledgment receipts and sworn affidavits relinquishing their rights vis-à-vis the acquired plots of land, earlier belonging to them. As a corollary, there is no substance in the contention advanced on behalf of the petitioners with regard to

prayer no. [iii] and prayer no. [v], made in the writ petition. Furthermore, as the compensation amounts have been arrived at after negotiation between the petitioners side and the respondents side without raising the issue of providing any employment to the members of the petitioners' families, any submission as regards prayer no. [iii] does not require a dilation.

26.1. In so far as the prayer of the petitioners to return the unutilized parcels of land to them as per Section 35 of the Defence of India Act, 1962 is concerned, it is noticed that Section 35 has provided for release of a property requisitioned under Section 29 of the same Act. In the case in hand, the requisitioning of the parcels of land measuring 154B-04K-08L was followed by acquisition. The parcels of land measuring 154B-04K-08L were under requisition as on 10.01.1968 when Section 25 came to be inserted in the Requisitioning and Acquisition of Immovable Property Act, 1952 by the Requisitioning and Acquisition of Immovable Property [Amendment] Act, 1968 w.e.f. 10.01.1968. In view of insertion of Section 25 in the afore-stated manner, the provisions of the Defence of India Act, 1962 including Section 35 thereof, had ceased to operate by virtue of sub-section [2] of Section 25 of the Requisitioning and Acquisition of Immovable Property Act, 1952, as amended. As such, the contention of the petitioners with regard to prayer no. [iv] is not tenable at this distant point of time.

26.2. From the fact situation obtaining in the case in hand, it has emerged that the parcel of land measuring 154B-04K-08L stood acquired by virtue of the proceedings of L.A. Case no. 26/1965-1966. It is a settled proposition of law of acquisition that once the land is acquired, it cannot be restored to the erstwhile landowner/persons interested from whom such land was acquired, even if it is

not used for the purpose for which it was so acquired or for any other purpose. It is trite to mention that once the possession of the land has been taken and compensation has been disbursed to the erstwhile landowner/persons interested, the land stands vested in the State, free from all encumbrances, and it cannot be reconveyed to the erstwhile landowner/persons interested. The erstwhile landowner/persons interested had a limited right to the extent of receiving compensation against their acquired land. As such, the relief sought for by the petitioners that they should be evicted from the possession of the unutilized land, as contained in prayer no. [ii] in the writ petition, cannot be countenanced.

27. From the fact situation obtaining in the case in hand, as on date, the acquired parcels of land are required for utilization for works in relation to the project, Multi Modal Logistics Park [MMLP], Jogighopa, presently being developed and executed envisaging the same to act as a world class logistic aggregation/disaggregation point for various forms of cargo across all modes, within a single facility. Any hindrance from the erstwhile landowners/persons interested who no longer had any right qua the parcels of land already acquired, may create impediment in expeditious and proper execution of the project, Multi Modal Logistics Park [MMLP], Jogighopa, which is a project of public importance. As the issues related to the acquisition proceedings initiated vide L.A. Case no. 26/1965-1966 have reached the stage, as discussed above, the respondent authorities in the Inland Waterways Authority of India [IWAI] are at liberty to utilize the parcels of land for the purpose of development of external road connectivity of the MMLP from National Highway no. 17 and Inland Water Transport [IWT], Jogighopa.

28. With the findings arrived at and observations made above, the writ petition stands disposed of. The interim order passed earlier, if any, stands recalled. There is no order as to cost.

JUDGE

Comparing Assistant