

GAHC010274822023



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

Case No. : WP(C)/7219/2023

MUNINDRA NATH DAS AND ANR
S/O LATE PURNA NANDA DAS, R/O VILL-BANGLIPARA, P.O.-
BHAWANIPUR, P.S.-PATHSALA, BARPETA, ASSAM, PIN-781352

2: DILIP KUMAR DAS
S/O LATE PURNA NANDA DAS
R/O VILL-BANGLIPARA
P.O.-BHAWANIPUR
P.S.-PATHSALA
BARPETA
ASSAM
PIN-78135

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF ASSAM, DISPUR,
GUWAHATI-6

2:THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
REVENUE AND DM (LR) DEPARTMENT
DISPUR
GUWAHATI-6

3:THE SECRETARY
WATER RESOURCE DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-6

4:THE DEPUTY COMMISSIONER
BARPETA
ASSAM

5:THE CHIEF ENGINEER
WATER RESOURCE DEPARTMENT
GUWAHATI
ASSAM

6:THE EXECUTIVE ENGINEER
WATER RESOURCE DEPARTMENT DIVISION
BARPETA
ASSAM

7:THE ASSISTANT EXECUTIVE ENGINEER
BAJALI WATER RESOURCE SUB-DIVISION
PATHSALA

8:THE CIRCLE OFFICER
SARUPETA REVENUE CIRCLE
BARPETA
ASSAM

9:THE SUB-DIVISIONAL OFFICER (CIVIL)
BAJALI
NOW DESIGNATED AS DISTRICT COMMISSIONER
DIST-BAJALI
ASSA

Advocate for the Petitioner : MR. I ALAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 20-12-2023

Heard Mr. I. Alam, learned counsel for the petitioners, Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 1, 4, 8 & 9; A. Bhattacharya, learned Standing Counsel, Revenue and Disaster Management Department for the respondent no. 2; and Ms. J. Gogoi, learned counsel representing Mr. R.M. Das, learned Standing Counsel, Water Resources

Department for the respondent nos. 3, 5, 6 & 7.

2. The case of the petitioners, briefly stated, is that a part of their owned plot of land, covered by Dag no. 154 [Part] Patta no. 43, situate at Village – Kaharapathar, Mouza – Bhawanipur, Sub-Division, Bajali, District – Barpeta [now Bajali] came to be acquired for a project named 'M/E along with B/B of Pahumara from Kathalmurighat to RLY line to B/B PWD road on R/B and nowkuchi village on L/B widening of embankment and A/E measure at different reaches at village – Kahara Pathar' under the provisions of the Right to Fair *Compensation and Transparency in Land Acquisition*, Rehabilitation and Resettlement Act, 2013 [the RFCTLARR Act, 2013, for short]. In connection with the said acquisition process, a case, L.A. Case no. 1/2016-17 has been registered and by passing an Award under the RFCTLARR Act, 2013, the petitioners have been disbursed an amount towards compensation for the acquired land and Zirat.

3. It is the contention of the petitioner that while assessing the compensation amount, the respondent authorities had taken the valuation of the petitioners' land in the lower side. As a result, the petitioners have received a lesser amount as compensation towards such acquisition. Aggrieved thereby, the petitioners have preferred the instant writ petition seeking inter alia a direction to the respondent authorities to reassess the valuation of the land on a proper basis.

4. As the land belonging to the petitioners have been acquired as per the provisions of the RFCTLARR Act, 2013, a statutory remedy is available to the petitioners to prefer an application under the second proviso to sub-section [1] of Section 64 of the RFCTLARR Act, 2013 as the said proviso has provided that where the Collector fails to make any reference within a period of 30 [thirty]

days from the date of receipt of any application from any person interested, such applicant can apply to the Authority, requesting it to direct the Collector to make the reference to it within a period of thirty days. The petitioners have stated that they have already submitted an application before the District Collector, Barpeta on 10.11.2022 seeking enhancement of the compensation amount on the premise that a proposal for enhancing the amount of compensation had already been forwarded by the Executive Engineer, Water Resources Division, Bajali, Pathsala vide his proposal bearing no. BJLA.1/2013/1756 dated 13.03.2013. As an adequate, efficacious and statutory remedy is available to the petitioners to prefer an application before the Authority under the second proviso to sub-section [1] of Section 64 of the RFCTLARR Act, 2013, this writ petition is not entertained and is, therefore, closed, reserving the liberty to the petitioners to prefer an application under the afore-stated provision within a period of 1 [one] month from today. If such an application is preferred by the petitioner before the Authority, the Authority shall proceed to consider the application on its own merits and in accordance with law. It will be open to the petitioners to take all the grounds available to them under the law, for seeking enhancement of the compensation amount before the authority.

5. This order disposes of the writ petition.

JUDGE

Comparing Assistant