

GAHC010280602023



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

Case No. : WP(C)/7258/2023

ROHIS UDDIN MOLLAH AND 14 ORS
S/O- HOSSEN ALI MOLLAH, R/O- TAKIMARI, BANYAGURI, P.S. LAKHIPUR,
DIST.- GOALPARA (ASSAM), PIN- 783132

2: MAHIR UDDIN SHEIKH
S/O- ABDUL JUBBAR
R/O- DAMRIBHASHA
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

3: ANOWAR HUSSAIN
S/O- NASIR UDDIN
R/O- TAKIMARI
BANYAGURI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

4: SHEIKH MONOWAR HUSSAIN
S/O- RIYAZ UDDIN SHEIKH
R/O- TAKIMARI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

5: SHOBITA PARBIN
W/O- MOSLEM ALI SHEIKH
R/O- TEKONA
P.O. KATARIHARA
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

6: ACHMAT ALI
S/O- CHAKU SHEIKH
R/O- TAKIMARI
BANYAGURI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

7: MANOWARA KHATUN
S/O- PASHAN ALI
R/O- TAKIMARI
BANYAGURI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

8: AFZALUR RAHMAN
S/O- NACHIR UDDIN
R/O- TAKIMARI
BANYAGURI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

9: TOSER UDDIN
S/O- NUR HOSEN SHEIKH
R/O- TAKIMARI
JALESWAR BILL
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

10: ISMAI HUSSAIN
S/O- ABDUL JUBBAR SHEIKH
R/O- BAROTANG VITA
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

11: SHAHJAHAN ALI
S/O- SATTAR ALI
R/O- TAKIMARI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

12: AMJAT ALI
S/O- LATE TAJIM UDDIN

R/O- TAKIMARI
BANYAGURI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

13: ABUL HUSSAIN
S/O- JAYEN ULLA SHEIKH
R/O- TAKIMARI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

14: NASIR UDDIN KHAN
S/O- HASEN ALI KHAN
R/O- TAKIMARI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 783132

15: PORAN ALI
S/O- BABUR ALI
R/O- CHOTUDMARI
P.S. LAKHIPUR
DIST.- GOALPARA (ASSAM)
PIN- 78313

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, WATER RESOURCES (FLOOD CONTROL) DEPARTMENT,
DISPUR, GHY-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GHY-06

3:THE DEPUTY COMMISSIONER
GOALPARA
P.O. AND P.S. AND DIST.- GOALPARA
ASSAM
PIN- 783101

4:THE CHIEF ENGINEER
WATER RESOURCES DEPARTMENT
CHANDMARI

GUWAHATI-03

5:THE EXECUTIVE ENGINEER (E AND D) DIVISION
GOALPARA
DIST.- GOALPARA
ASSAM
PIN- 783126

6:THE CIRCLE OFFICER
LAKHIPUR REVENUE CIRCLE
LAKHIPUR
DIST.- GOALPARA
ASSAM
PIN- 78313

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : GA, ASSAM

For the petitioner (s) : **Mr. W. Rahman, Advocate**

For the respondent (s) : Mr. P. Nayak, Advocate
Mr. R. C. Das, Advocate
Mr. J. Handique, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

20.12.2023

The instant writ petition is taken up for disposal at the motion stage itself.

2. 15 writ petitioners alleging that in the land acquisition proceedings initiated for acquisition of 64 bighas 4 kathas 3 lechas of land at village Takimari, Dakshin Satvendi, Bhalukmari the concerned authorities have not

surveyed the land in a proper manner for which these petitioners are not included within the ambit of persons interested. Being aggrieved, the petitioners have submitted a requisition on 16.02.2022 which has also not been considered for which the instant writ petition has been filed.

3. Mr. J. Handique, the learned counsel appearing on behalf of the Collector/the District Commissioner, Goalpara had placed before this Court an instruction issued to the Executive Engineer, Goalpara Water Resource Division, Goalpara wherein it has been mentioned that the field level joint survey was conducted for identification of actual land falling within the area of acquisition for construction of the said scheme with the Circle Officer, Lakhipur Revenue Circle and the Executive Engineer, Water Resource Division, Goalpara. The said joint survey was completed on 18.03.2023 and a report was duly submitted. On the basis of the said report, the land was acquired as per Form-F under Section 9 (2) of the Assam Land (Requisition and Acquisition) Act, 1964 (for short, 'the Act of 1964'). The said communication is dated 28.07.2023 and 5 months have duly elapsed therefrom. It is submitted by the learned counsel for the District Commissioner, Goalpara as well as the learned counsel appearing on behalf of the Water Resources Department that the Award is yet to be made and filed as per the Act of 1964. The instructions so submitted by Mr. J. Handique, the learned counsel appearing on behalf of the Collector/the District Commissioner, Goalpara is kept on record and marked with the letter "X".

4. This Court also takes note of that the basis on which the instant writ petition is filed is the representation submitted on 16.02.2022 and in the meantime on 18.03.2023 there has been a further survey conducted. It is,

therefore, not known from the statement made in the writ petition as to whether now after the recent survey conducted on 18.03.2023, the names of the petitioners have been duly inserted. This Court further taking note of that there is no representation so submitted before the concerned District Commissioner pursuant to the joint survey conducted on 18.03.2023 is not inclined to entertain the instant writ petition.

5. Be that as it may, the petitioners herein are given the liberty to approach the respondent authorities, more particularly, the District Commissioner, Goalpara if the petitioners have any objection in respect to the joint survey conducted on 18.03.2023 and the District Commissioner, Goalpara shall duly consider the same. This Court however observes that in the event the Award has been made and filed in respect to the said acquisition proceedings, the District Commissioner, Goalpara would be functus officio for which, if any representation is filed, it shall be treated as an application under Section 12 of the Act of 1964 and due reference be made in terms with the said provision to the Court.

6. With the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant