

GAHC030003182023



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

Case No. : WP(C)/68/2023

The Union of India and 4 Ors.
R/b the Secretary to the Govt. of India, Ministry of Railways, Rail Bhavan, Raisina Road, New Delhi-110001.

2: The General Manager (Construction)
N.F. Railway

3: The Chief Administrative Officer (Construction-I)
N.F. Railway

4: The Chief Engineer (Construction-II)
N.F. Railway

5: The Deputy Chief Engineer (Construction-I)
Bhairabi to Silchar
N.F. Railwa

VERSUS

Sh. Lalfakawma and 56 Ors.
S/o Sangliana,
R/o Kulikawn, Aizawl.

3:Sh. Ramzauva

4:Sh. A. Vanlalhriata

5:Sh. Hmangaihzuala

6:Sh. Hmangaihpuia

7:Village Council
Hortoki

8:Sh. Lalbiaknunga

9:Sh. Vanlalngheta

10:Smt. V.L. Hluni

11:Sh. Laltinkhuma

12:Sh. Lalfakzuala

13:Sh. Zonunsanga

14:Sh. V. Lalsiama

15:Sh. Lalmuanpuia

16:Sh. Vanlalbika

17:Sh. Rosangzuala

18:Smt. Zachhungi

19:Smt. Lalramnghaki

20:Sh. Lalhlira

21:Smt. Lalnunpuii

22:Sh. Remsiana

23:Sh. Malsawmtluanga

24:Sh. Vanawmmawia

25:Sh. C. Lalrinpuia

26:Sh. C. Lalrintluanga

27:Smt. Lalthlamuani

28:Smt. Lalrinmawii

29:Smt. Lalrohlui

30:Smt. Vanlalzawmi

31:Sh. Vanlalawmpuia

32:Sh. R. Lalawmpuia

33:Sh. Lalrammawia

34:Smt. Biakthangi

35:Sh. Aspro

36:Smt. Rochhingpuii

37:Sh. Zonunsanga

38:Sh. H.T. Rila

39:Sh. V.L. Malsawma

40:Sh. Thangpara

41:Smt. Lalrovi

42:Smt. Zohmingthangi

43:Sh. Zonunsanga

44:Smt. Lalchhuanthangi

45:Smt. V.L. Siami

46:Sh. M.S. Tluanga

47:Sh. Lalremruata

48:Sh. R. Sangkhuma

49:Sh. Kaphranga

50:Smt. Lalbiaktluangi

51:Sh. Raimona

52:Sh. Ralchawlthanga

53:Sh. Zodinga

54:Sh. Nunmawia

55:The District Collector
Kolasib District

56:The State of Mizoram R/b the Chief Secretary to the Government of Mizoram

57:The Secretary to the Government of Mizoram
Land Revenue and Settlement Department

58:The Director
Land Revenue and Settlement Departmen

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi

Advocate for the Respondent : Addl. AG/GA, Mizoram for R54 - 57

ORDER

B E F O R E

HON'BLE MR. JUSTICE NELSON SAILO

27.07.2023

Heard Mr. Sanjay Kumar Medhi, learned CGC appearing for the petitioners and Mr. Jonathan L. Sailo, learned counsel appearing for the private respondents. Also heard Mr. P.C Lalthangmawia learned counsel appearing for the State respondents.

[2.] Having regard to the nature of grievances projected in the writ petition, the writ petition is taken up for disposal at this stage.

[3.] The petitioner Union of India has filed the instant writ petition with the

following prayer:-

“In the premises aforesaid it is prayed that Your Lordships may be pleased to admit this petition, call for the records, issue a Rule calling upon the respondents to show cause as to why a writ in the nature of Certiorari or any other appropriate writ shall not be issued setting aside and quashing the impugned letter of assessment dated 7.12.2022 made by the District Collector, Kolasib (Annexure-D) and the consequential letter of District Collector, Kolasib dated 10.5.2023 (Annexure-H) and not to given effect to the impugned letter of assessment dated 7.12.2022 made by the District Collector, Kolasib (Annexure-D) and the consequential letter of District Collector, Kolasib dated 10.5.2023 (Annexure-H) and issue a Rule in the nature of Mandumas directing the respondent No. 54 i.e. the District Collector, Kolasib to adjust the said amount (which was paid U/s 34 of the LA Act, 1894 to the 41 respondents mentioned in Paragraph No.11 of the writ petition) with the interest payable U/s 28 of the LA Act, 1894 and cause or causes being shown and after hearing the parties be pleased to make Rule absolute giving full and complete relief to the petitioners as prayed for and/or further pray that an enquiry may be conducted by the appropriate agency in this regards and/or may pass further order/orders as Your Lordships may deem fit and proper.

-AND-

In the interim, Your Lordship may be pleased to –

- 1. Not given effect to the impugned letter of assessment dated 7.12.2022 made by the District Collector, Kolasib (Annexure-D) and the consequential letter of District Collector, Kolasib dated 10.5.2023 (Annexure-H).*
- 2. Direct the respondent authority to maintain status quo till the final disposal of the case.”*

[4.] Mr. Sanjay Kumar Medhi, learned CGC submits that the District Collector while making the verification and assessment has added more people than those who were

arrayed as petitioners in WP(C) No. 129/2021. He submits that in some cases, the names of an individual person appear in two places. He also submits that the private respondents cannot avail the benefit of interest under Section 28 as well as under Section 34 of the Land Acquisition Act, 1894 (L.A Act). The learned counsel submits that the private respondents otherwise have already got the benefit of interests under Section 34 of the L.A Act and therefore, whatever amount is due to them under Section 28 of the L.A Act should be accordingly adjusted.

[5.] Mr. Jonathan L Sailo, learned counsel, on the other hand submits that WP(C) No. 129/2021 was disposed of with the consent of the rival parties and therefore, the petitioner Union of India cannot raised their grievances at this stage. He submits that, in fact, in WP(C) No. 129/2021 not all the petitioners had received interest under Section 34 of the L.A Act but however, the petitioners therein restricted their claim to interest under Section 28 of the L.A Act. Accordingly, as directed, the District Collector, Kolasib had made the verification and computation of the interest payable under Section of the 28 of the L.A Act to the petitioners and as such, there is nothing wrong with the Communication dated 07.12.2022 of the District Collector concerned. As such, the writ petition should be dismissed.

[6.] Mr. P.C Lalthangmawia, learned Government Advocate adopts the argument of Jonathan L Sailo and submits that the District Collector has only made the calculations after making proper verification as directed by this Court. As such, there is no communication made on 07.12.2022 to the petitioner Union of India to make the arrangement of the fund for payment of the land owners.

[7.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record.

[8.] As already stated herein above, the petitioner Union of India has challenged the verification and assessment made by the District Collector, Kolasib regarding the

entitlement of the petitioners for payment of interest under Section 28 of the L.A Act. It may be seen that the said exercise was undertaken in terms of the direction of this Court vide Order dated 30.11.2022 passed in WP(C) No. 129/2021. It is also an admitted position that the said Order dated 30.11.2022 has not been challenged by any of the parties. The further contention of the petitioner Union of India is that the private respondents cannot have the benefit of payment of interest both under Section 28 and Section 34 of the L.A Act. Section 28 of the L.A Act provides that if the sum which in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess @ 9% per annum from the date on which he took possession of the land to the date of payment of such excess into Court. Further, the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of the date of one year from the date on which possession is taken, interest @ 15% per annum shall be payable from the date of expiry of the said period of one year on the amount if such excess or part thereof, which has not been paid into Court before the date of such expiry.

[9.] Section 34 of the L.A Act provides that when the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon @ 9% per annum from the time of so taking possession until it shall have been so paid for deposited. Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest @15% per annum shall be payable from the date of expiry of the said period or one year on the amount of compensation or part thereof, which has not been paid or deposited before the date of such expired.

[10.] From a perusal of the above two provisions, it is clear that the interest

payable under the two heads are distinct and are also complementary and payable under the circumstances provided therein. The learned CGC upon being asked as to what could be the mistake committed by the District Collector while making its computation either in the impugned Communication dated 07.12.2022 or the enclosed table and calculation, is not able to point out the same. The name of some of the beneficiaries which appears in more than one place is because the individual concerned owns more than one pass or plot of land. Therefore, it is not a case that a single individual has been given an assessment for the same plot of land in two places. In view of the provision under Section 28 & 34 of the L.A Act as already stated herein above, there can also be no question of adjustment being made from the amount awarded under Section 34 of the L.A Act as contended by the petitioners.

[11.] Thus, upon due consideration of the materials available on record and also in view of the law laid down by the Apex Court in the case of *Sunder vs. Union of India, (2001) 7 SCC 211* that Section 28 of the L.A Act is supplementary to Section 34 of the L.A Act, this Court does not find any merit in the writ petition and accordingly, the same is dismissed. No cost.

JUDGE

Comparing Assistant