

GAHC030003322023



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

Case No. : WP(C)/76/2023

Sh. H. Lalnunmawia and 106 Ors.

S/o Darliana (L)

R/o Hortoki, Kolasib District 2: Lalhmangaihzuale

S/o Kaphnuna

R/o Hortoki

Mizoram

3: Laltlankima

S/o Lalrinnggheta

R/o Hortoki

Mizoram

4: C. Zahlira

S/o V.L Lawma

R/o Hortoki

Mizoram

5: R. Vanrammawii

D/o Zathuami

R/o Hortoki

Mizoram

6: Lalhriata

S/o Sapzuithanga

R/o Hortoki

Mizoram

7: Vanlalkima

S/o Chalthianga

R/o Hortoki

Mizoram

8: Vanlalkima

S/o Chalthianga

R/o Hortoki
Mizoram

9: Vanlalngheta
S/o Rualzakhuma
R/o Hortoki
Mizoram

10: Lalzahawma
S/o Lalhmuakthanga
R/o Hortoki
Mizoram

11: Lalhriatpuia Ngente
S/o Thanhkira
R/o Hortoki
Mizoram

12: Thanhkira
S/o Lalrema
R/o Hortoki
Mizoram

13: Lalnunmawia Ngente
S/o Thanhkira
R/o Hortoki
Mizoram

14: Hmingthanzauvi
W/o Thanhkira
R/o Hortoki
Mizoram

15: Feli
D/o Huaplina
R/o Hortoki
Mizoram

16: Vanlalzuala
S/o Lalduha
R/o Hortoki
Mizoram

17: Lalngaihsaka
S/o R.K kapthanga
R/o Hortoki
Mizoram

18: Lalmudika
S/o Lalngaihsaka
R/o Hortoki
Mizoram

19: Lalrintluanga
S/o Lalmangaiha
R/o Hortoki
Mizoram

20: Laltlanhlua
S/o Lalmangaiha
R/o Hortoki
Mizoram

21: Lalmangaiha
S/o Hrangkhuma
R/o Hortoki
Mizoram

22: K.Thanchungnunga
S/o K. Thanhkira
R/o Hortoki
Mizoram

23: Lalthanliana
S/o Zathanga (L)
R/o Hortoki
Mizoram

24: Engthangpuii (Maengi)
W/o Lalremliana
R/o Hortoki
Mizoram

25: Lalmachhuana
S/o Neihtluanga
R/o Hortoki
Mizoram

26: Hmangaihtluanga
S/o Hmachhuana
R/o Hortoki
Mizoram

27: Thazuali
D/o Lalmachhuana
R/o Hortoki

Mizoram

28: Lalnghengi
W/o K. Lalduha
R/o Hortoki
Mizoram

29: Lalfakzuala
S/o Lalremsiama
R/o Hortoki
Mizoram

30: Lianggura
S/o Neihtluanga
R/o Hortoki
Mizoram

31: Engkima
S/o Lianggura
R/o Hortoki
Mizoram

32: Lalhmachhuani
D/o Lianggura
R/o Hortoki
Mizoram

33: H. Malsawma
S/o Darliana
R/o Hortoki
Mizoram

34: Lalrochhari
D/o V.L Duha
R/o Hortoki
Mizoram

35: Rosangkima
S/o Liansawta
R/o Hortoki
Mizoram

36: Liansawta
S/o Chawngsailova
R/o Hortoki
Mizoram

37: H.S. Thanglawta

S/o H.S Zakhuma
R/o Hortoki
Mizoram

38: Lalthankima
S/o Huaplina
R/o Hortoki
Mizoram

39: Vanlalliana
S/o Laluma
R/o Hortoki
Mizoram

40: Vanlalliana
S/o Laluma
R/o Hortoki
Mizoram

41: Lalthuampuii
D/o Keuphunga
R/o Hortoki
Mizoram

42: Vanlalthmuaki
D/o Vanlalliana
R/o Hortoki
Mizoram

43: Lalfakmawia
S/o Vanlalliana
R/o Hortoki
Mizoram

44: Lalrinnunga
S/o Sangliana
R/o Hortoki
Mizoram

45: Lalrinnunga
S/o Sangliana
R/o Hortoki
Mizoram

46: Lalrinnunga
S/o Sangliana
R/o Hortoki
Mizoram

47: Lalthazuala
S/o Lalrinnunga
R/o Hortoki
Mizoram

48: Lalhmingmawia
S/o Lalkhuma
R/o Hortoki
Mizoram

49: Joel Lalnunfela
S/o Lalramzauva
R/o Hortoki
Mizoram

50: Lalramzauva
S/o Lalrema
R/o Hortoki
Mizoram

51: Lalramzauva
S/o Lalrema
R/o Hortoki
Mizoram

52: Lalmuanpuia
S/o H. Thangliana
R/o Hortoki
Mizoram

53: Lalhmingangi
D/o H.T Rila
R/o Hortoki
Mizoram

54: D.Thangchualova
S/o Thangkima
R/o Hortoki
Mizoram

55: Thangchualova
S/o Thangkima (L)
R/o Hortoki
Mizoram

56: John Lalthlamuana
S/o Thangchualova

R/o Hortoki
Mizoram

57: Thandanga
S/o Chalthantluanga
R/o Hortoki
Mizoram

58: Thandanga
S/o Chalthantluanga
R/o Hortoki
Mizoram

59: Thandanga
S/o Chalthantluanga
R/o Hortoki
Mizoram

60: Thandanga
S/o Chalthantluanga
R/o Hortoki
Mizoram

61: Thandanga
S/o Chalthantluanga
R/o Hortoki
Mizoram

62: Thandanga
S/o Chalthantluanga
R/o Hortoki
Mizoram

63: Chalnguri
W/o Thandanga
R/o Hortoki
Mizoram

64: Lalhruaitluangi
D/o Thandanga
R/o Hortoki
Mizoram

65: Zohmingthangi
D/o Chalthantluanga
R/o Hortoki
Mizoram

66: Lalnunmawia
S/o Darliana
R/o Hortoki
Mizoram

67: Zoremawia
S/o H. Lalnunmawia
R/o Hortoki
Mizoram

68: Lalnuntluangi
D/o H. Lalnunmawia
R/o Hortoki
Mizoram

69: C. Lalhmingliana
S/o Khuanga(L)
R/o Hortoki
Mizoram

70: C. Lalhmingliana
S/o Khuanga (L)
R/o Hortoki
Mizoram

71: Khetrojoi
C/o C. Lalhmingliana
R/o Hortoki
Mizoram

72: C. Lalpari
D/o Rinawma
R/o Hortoki
Mizoram

73: Lalchhanhima
S/o Lalhmingliana
R/o Hortoki
Mizoram

74: Lalrinsanga
S/o H.T Tawna
R/o Hortoki
Mizoram

75: Zodinthari
D/o Lalrinsanga
R/o Hortoki

Mizoram

76: Lalmangaihzualla
S/o Lalrinsanga
R/o Hortoki
Mizoram

77: Lalsangluaia
S/o Lalrinsanga
R/o Hortoki
Mizoram

78: H.D. Lalduhawma
S/o V.L Vuana
R/o Hortoki
Mizoram

79: H.C. Malsawmkima
S/o H.D. Lalduhawma
R/o Hortoki
Mizoram

80: Darremsangi
D/o H.D. Lalduhawma
R/o Hortoki
Mizoram

81: Lalparliana
S/o Lalhleia
R/o Hortoki
Mizoram

82: Darrotluanga
S/o Zahunga
R/o Hortoki
Mizoram

83: Darthantluanga
S/o Zahunga
R/o Hortoki
Mizoram

84: Lalbiaksangi
D/o H.D Darthantluanga
R/o Hortoki
Mizoram

85: H.D. Lalchungnunga

S/o V.L Vuana
R/o Hortoki
Mizoram

86: A. Zohmangaiha
S/o J. Hrangkima
R/o Hortoki
Mizoram

87: Lalbuatsaiha
S/o Lalrawna
R/o Hortoki
Mizoram

88: Laltawngchhana
S/o Lalbuatsaiha
R/o Hortoki
Mizoram

89: H. Vanlalsiama
S/o Lalbiakchhunga
R/o Hortoki
Mizoram

90: H. Vanlalsiama
S/o Lalbiakchhunga
R/o Hortoki
Mizoram

91: Lalringngheti
D/o Hmingmawia
R/o Hortoki
Mizoram

92: Lalkima
S/o Pahlira
R/o Hortoki
Mizoram

93: Lalpianmawia
S/o Thangzuala
R/o Hortoki
Mizoram

94: Lalpianmawia
S/o Thangzuala
R/o Hortoki
Mizoram

95: Lalpianmawia
S/o Thanzuala
R/o Hortoki
Mizoram

96: Lalawmpuia
S/o Lalpianmawia
R/o Hortoki
Mizoram

97: Lalawmpuia
S/o Lalpianmawia
R/o Hortoki
Mizoram

98: Lalthlamuana
S/o Lalpianmawia
R/o Hortoki
Mizoram

99: Lalthatluangi
D/o Lalpianmawia
R/o Hortoki
Mizoram

100: V.L. Peki
D/o Liankhuma
R/o Hortoki
Mizoram

101: Laldinsanga
S/o Thanzuala
R/o Hortoki
Mizoram

102: Lalhangmawia
S/o Lalhmuaka
R/o Hortoki
Mizoram

103: Vanlalkima
S/o Chalthianga
R/o Hortoki
Mizoram

104: Lalchualovi
D/o Thuamliaana

R/o Hortoki
Mizoram

105: Ngentluanga
S/o Kailuia
R/o Hortoki
Mizoram

106: Lianzuali
D/o Lianngura
R/o Hortoki
Mizoram

107: Vanlalliana
S/o Lalrinawma
R/o Hortoki
Mizora

VERSUS

The State of Mizoram R/b the Chief Secretary to the Govt. of Mizoram, Aizawl and 8
Ors.

Govt. of Mizoram
Aizawl2:The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Dept.
Aizawl

3:The Director
Land Revenue and Settlement Dept.
Govt. of Mizoram
Aizawl

4:The District Collector/ District Commissioner
Kolasib District
Kolasib
Mizoram

5:The Union of India R/b the Secretary
Railway Board
Ministry of Railways
Govt. of India
Rail Bhavan
1
Raisina Road
New Delhi

6:The Northeast Frontier Railway
R/b its General Manager/ Construction

N.F Railway Headquarters
Maligaon
Guwahati - 781012

7:The Chief Administrative Officer
Construction-I
Northeast Frontier Railway
Maligaon
Guwahati - 781012

8:The Chief Engineer
Construction-2
Northeast Frontier Railway
Maligaon
Guwahati - 781012

9:The Deputy Chief Engineer
Construction / Bairabi
Northeast Frontier Railway
Bairabi
Kolasib Distric

Advocate for the Petitioner : Mr. Jonathan L Sailo

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 - 4

B E F O R E
HON'BLE MR.JUSTICE MICHAEL ZOTHANKHUMA
ORDER

11.08.2023

Heard Mr. Jonathan L. Sailo, learned counsel for the petitioners. Also heard Ms. Mary L. Kiangte, learned Government Advocate appearing for the respondent Nos. 1 to 4 and Ms. Zairemsangpuii, learned CGC appearing for respondent Nos. 5 to 9.

2. The petitioners herein have made a prayer for grant of interest under

Section 34 of the Land Acquisition Act, 1894, hereinafter referred to as the "LA Act, 1894", on the compensation awarded on acquisition of their lands in pursuance to Award No. 1/2012 (Part 'C', Hortoki) dated 13.09.2012.

3. The case of the petitioners is that their lands had been acquired for construction of a railway line from Bairabi to Sairang. As the compensation had been awarded/given only for crops in terms of Award No. 1/2012 (Part 'C', Hortoki), the petitioners along with other landowners, whose names were included in Award No. 1/2012 (Part 'C', Hortoki), filed an application under Section 18 of the LA Act, 1894, claiming payment of compensation for the value of their lands. The said reference application was referred to the Principle Civil Court (Reference Court), wherein it was registered as LA Case No. 30/2014.

4. LA Case No. 30/2014 was thereafter disposed of by the Reference Court, vide Judgment & Award dated 05.02.2015, by awarding compensation to the petitioners for the value of their lands and by observing that they were entitled to claim payment of interest under Section 28 & 34 of the LA Act, 1894.

5. Thereafter Civil Miscellaneous Application (CMA) No. 114/2018 in LA Case No. 30/2014 was filed by some of the persons who were petitioners in LA Case No. 30/2014, wherein the claim for payment of interest under Sections 28 & 34 of the LA Act, 1894 was made. The learned Reference Court disposed of CMA No. 114/2018, vide Judgment & Order dated 25.07.2018, by directing the District Collector, Kolasib to make an assessment for payment of interest under Section 28 of the LA Act, 1894 from 04.03.2013 (date of possession) to 04.03.2014 @ 9% per annum w.e.f. 05.03.2014 to 21.11.2015. The learned Reference Court further directed the District Collector, Kolasib to assess interest

under Section 34 of the LA Act @ 9% per annum w.e.f. 04.03.2013 to 04.03.2014 and interest @ 15% per annum from 05.03.2014 to 21.11.2015.

6. The petitioners herein, who were not parties in CMA No. 114/2018, filed Review Petition No. 2/2018 arising out of LA Case No. 30/2014, claiming payment of interest under Section 28 & 34 of the LA Act, 1894 in terms of the Judgment & Order dated 25.07.2018 passed in CMA No. 114/2018, as they were similarly situated persons, having been parties in LA Case No. 30/2014.

7. The Reference Court disposed of Review Petition No. 2/2018 vide Judgment & Award dated 27.05.2019, by coming to a finding that the petitioners herein were entitled to payment of interest under Section 28 & 34 of the LA Act, 1894, for acquisition of their lands in connection with Award No. 1/2012 (Part 'C', Hortoki). The learned Reference Court thereafter directed the District Collector, Kolasib to make assessment for payment of interest under Section 28 & 34 of the LA Act, 1894, in terms of the Judgment & Order dated 25.07.2018 passed in CMA No. 114/2018. In pursuance to the Judgment & Award dated 27.05.2019 passed in Review Petition No. 2/2018, the District Collector, Kolasib made an assessment of the interest payable to the petitioners under Section 28 & 34 of the LA Act, 1894 and vide letter No. RP. No. 2/2018 A/o LA 30/2014 (AZL)-DC(K)/5 dated 29th August, 2019, directed the respondent No. 9 to make payment of interest under Section 28 & 34 to the petitioners.

8. As no payment was being made in terms of the assessment made by the District Collector, Kolasib and the letter issued by him on 29.08.2019, the

petitioners filed Execution Case No. 28/2020 arising out of Review Petition No. 2/2018, before the Court of the Additional District & Sessions Judge-III, Aizawl.

The learned Executing Court, vide Order dated 24.01.2022, closed the execution case, by directing the petitioners herein to file a fresh execution petition, after submitting an accurate and effective mode for execution of the order passed by the learned Reference Court in Review Petition No. 2/2018 and the assessment made by the District Collector, Kolasib.

9. The petitioners being aggrieved with the closure of the execution case by the Executing Court filed Civil Revision Petition No. 2/2022 before this Court. CRP No. 2/2022 was disposed of vide Order dated 04.11.2022, by setting aside the Order dated 24.01.2022 closing the Execution Case No. 28/2020 and directing the Executing Court to expedite disposal of the execution case.

10. Subsequent to the above facts, the Union of India filed WP(C) No. 30/2023, challenging the Judgment & Award dated 27.05.2019 passed by the learned Reference Court in Review Petition No. 2/2018 arising out of LA Case No. 30/2014. The Judgment & Award dated 27.05.2019 was challenged on the ground that interest under Section 28 & 34 of the LA Act could not be awarded by a Reference Court and the same could only be awarded in a writ petition filed under Article 226 of the Constitution, in terms of the decision of the Supreme Court in *Union of India & Anr. Vs. Pushpavathi & Ors.*, reported in 2018 3 SCC 28.

11. WP(C) No. 30/2023 was disposed of vide Order dated 25.05.2023, in pursuance to the judgment of the Supreme Court in *Union of India & Anr. Vs.*

Pushpavathi & Ors. (Supra), by setting aside the Judgment & Award dated 27.05.2019 passed in Review Petition No. 2/2018. The consequential assessment made by the District Collector, Kolasib pursuant to the Judgment & Award dated 27.05.2019 passed in Review Petition No. 2/2018 was also set aside. It however held that there would be no bar for the petitioners herein to claim interest payable to them under Sections 28 & 34 of the LA Act, 1894, in appropriate proceedings as may be permissible in law.

12. The petitioners herein thereafter filed WP(C) No. 59/2023 claiming payment of interest under Section 28 of the LA Act, 1894. WP(C) No. 59/2023 was disposed of vide Order dated 01.06.2023, by holding that as the Union of India had admitted to the petitioners being entitled to interest under Section 28 of the LA Act, they were entitled to receive the same. Accordingly, the District Collector, Kolasib was directed to make assessment on the entitlement of the petitioners, for payment of interest under Section 28 of the LA Act, which was thereafter to be paid to the petitioners.

13. The counsel for the petitioners submits that in compliance with the Order dated 01.06.2023 passed in WP(C) No. 59/2023, the District Collector, Kolasib has made a fresh assessment for payment of interest under Section 28 of the LA Act, 1894 and the same has been sent to the respondent Nos. 5 to 9 for payment. He submits that the payment on the said assessment has not been made till date.

14. The counsel for the petitioners submits that all the land owners, whose lands were acquired under Award No. 1/2012 (Part 'C', Hortoki), have all been paid interest under Section 34 and it is only the petitioners herein who have not

been paid interest under Section 34 of the LA Act, 1894. He submits that the persons who were parties in CMA No. 114/2018 have been given interest under Section 34 of the LA Act, 1984 @ 9% per annum from 04.03.2013 (date of possession) to 04.03.2014 @ 15% per annum w.e.f. 05.03.2014 to 21.11.2015 (date of payment). The payment for the same was made on 07.01.2019. He accordingly submits that the petitioners should also be granted interest under Section 34 of the LA Act, 1894, as they are similarly situated persons.

15. Ms. Mary L. Khiangte, learned Government Advocate for the respondent Nos. 1 to 4 submits that she has got no comments to make in this case.

16. Ms. Zairemsangpuii, learned CGC for the respondent Nos. 5 to 9 submits that the petitioners herein have now approached this Court for payment of interest under Section 34 of the LA Act, in view of the Order dated 25.05.2023 passed in WP(C) No. 30/2023, which in turn had been made in pursuance to the Judgment of the Supreme Court in *Union of India & Anr. Vs. Pushpavathi & Ors. (Supra)*. She submits that similarly situated persons as the petitioners, who were all included in Award No. 1/2012 (Part-C Hortoki) and were parties to LA Case No. 30/2014, have received interest under Section 34 of the LA Act, 1894. She also submits that she does not have any further comments to make in this matter.

17. I have heard the learned counsels for the parties.

18. The facts of the case, as indicated in the foregoing paragraphs, clearly shows that the petitioners are similarly situated as those persons who have

received interest under Section 34 of the LA Act, inasmuch as, they were all included in Award No. 1/2012 (Part 'C', Hortoki), besides being parties in LA Case No. 30/2014. The compensation amount for the crops and lands have also been given to them at the same time. However, the petitioners have not been given interest under Section 34 of the LA Act, 1894 as they were not parties in CMA No. 114/2018. Thus, the petitioners had filed Review Petition No. 2/2018. The learned Review Court had thereafter awarded interest under Section 34 of the LA Act, 1894 to the petitioners. However, due to the Order dated 25.05.2023 passed in WP(C) No. 30/2023, the Judgment & Award passed in Review Petition No. 2/2018 was set aside by this Court vide Order dated 25.05.2023, in view of paragraph No. 41 of the Judgment of the Supreme Court in *Union of India & Anr. Vs. Pushpavathi & Others (Supra)*, wherein it has been stated as follows:-

“41. In the light of the foregoing discussion, we are of the considered opinion that the dispute in relation to non-award of interest can be raised by an aggrieved person only by taking recourse to Article 226 of the Constitution in writ petition. In other words, reference under Section 18 or Section 28-A(3) cannot be considered to be an alternative statutory remedy available to the landowner for getting the question of non-award of interest payable under Sections 28 or/and 34 of the Act decided by the civil court.”

19. This Court, vide Order dated 25.05.2023 passed in WP(C) No. 30/2023 had however stated that there would be no bar for the petitioners to claim interest under Sections 28 & 34 of the LA Act, in appropriate proceedings as permissible in law. As such, the petitioners have approached this Court under Article 226 of the Constitution, praying for payment of interest under Section 34

of the LA Act, 1894. As can be seen from the documents on record, the persons who are parties to CMA No. 114/2018 and who are similarly placed as the petitioners have been given interest under Section 34 of the LA Act, 1894 on 07.01.2019. As it is an undisputed fact that the petitioners herein are similarly situated as the parties (petitioners) in CMA No. 114/2018, they being included in Award No. 1/2012 (Part-C Hortoki) and also being parties in LA Case No. 30/2014, there is no ground to deny payment of interest under Section 34 of the LA Act to the petitioners herein.

20. Accordingly, the District Collector, Kolasib is directed to make an assessment for payment of interest under Section 34 of the LA Act, 1894 to the petitioners, as had been given to the landowners in CMA No. 114 of 2018 i.e. @ 9% p.a. from 04.03.2013 (date of possession) to 04.03.2014 and @15% p.a. w.e.f. 05.03.2014 to 21.11.2015 (date of payment), within a period of 1 (one) month from the date of receipt of a certified copy of this order. Thereafter, the District Collector, Kolasib shall communicate the same to the respondent Nos. 5 to 9, who shall thereafter make arrangement for payment of interest under Section 34 of the LA Act within a further period of 3 (three) months.

21. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant