

GAHC030004202023



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

Case No. : Review.Pet./2/2023

Sh. Vanlalawmpuia
S/o Hluanchhinga(L)
Address- R/o N.E. Khawdungsei, Saitual District, Mizoram

VERSUS

Sh.Thangkunga and 3 Ors
S/o Hluanchhinga(L)
Address - R/o N.E. Khawdungsei, Saitual District, Mizoram 2:The State of
Mizoram r/b the Chief Secretary
Government of Mizoram

3:The State of Mizoram r/b the Chief Secretary
Government of Mizoram

4:The Deputy Commissioner
Saitual District
Mizoram

5:The Competent Authority for Land Aquisition (CALA)/ Addl.Deputy
Commissioner
Saitual Distric

Advocate for the Petitioner : Mr. T Lalnunsiamia

Advocate for the Respondent : Mr Zoramchhana for R1

Linked Case : I.A.(Civil)/95/2023

Sh. Vanlalawmpuia
S/o Lallawmkima (L)
R/o N.E. Khawdungsei
Saitual District
Mizoram

VERSUS

Sh.Thangkunga and 3 Ors.
S/o Hluanchhinga(L)
R/o N.E. Khawdungsei

Saitual District
Mizoram

2:The State of Mizoram r/b the Chief Secretary
Government of Mizoram
Aizawl

3:The Deputy Commissioner
Saitual District
Mizoram
Saitual
Saitual District
Mizoram

4:The Competent Authority for Land Aquisition (CALA)/ Addl.Deputy Commissioner
Saitual District
Saitual
Mizoram

Advocate for the Petitioner : Mr. T Lalnunsiana
Advocate for the Respondent : Mr Zoramchhana for R1

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO
O R D E R

30.11.2023

Heard Mr. T Lalnunsiam, learned counsel for the review petitioner and Mr. Zoramchhana, learned counsel for respondent No. 1. Also heard Mr. P C Lalthangmawia, learned Government Advocate appearing for the remaining respondents. Considering the issue involved, the review petition is taken up for disposal at this stage.

[2.] By filing this review petition, the review petitioner seeks review of the Order dated 12.05.2023 passed by this Court in WP(C) No. 37/2023 whereby and whereunder this Court had directed that the amount of compensation assessed in favour of the writ petitioner under the National Highways Act, 1956 as compensation be disbursed to him without further delay. It is the case of the writ petitioner that in the process of upgradation of National Highway 102B, his land was greatly affected and therefore, an assessment for payment of compensation was made. Although all the other similar situated persons were compensated, he was not paid the compensation amount due to him and therefore, he filed the writ petition. During pendency of the writ petition, Court was informed that one Sh. Vanlalawmpuia, who is the present review petitioner and who is the grandson of the writ petitioner had filed Declaratory Suit No. 231/2022 before the Senior Civil Judge-II, Aizawl, the same was withdrawn on 30.04.2023 with liberty to approach the arbitrator to be appointed by

the appropriate authority under the National Highways Act, 1956. This Court therefore directed the learned Government Advocate to find out as to whether any arbitration proceedings were pending on the claim made by the parties. On the next date of listing of the case, Court was informed that no such arbitration proceeding was pending and therefore, this Court directed the release of the compensation amount to the writ petitioner without delay.

[3.] Mr. T Lalnunsiam, learned counsel for the review petitioner submits that this Court was misinformed that no arbitration proceeding was pending inasmuch as, the review petitioner after withdrawing his Declaratory Suit on 13.04.2023 filed an arbitration application before the appointed arbitrator on 19.04.2023. However, the arbitrator did not take up the matter for a long time and it was only on 08.08.2023 that the matter was taken up by the arbitrator and therefore, an order was passed on 11.08.2023 directing the CALA to make assessment and apportionment of compensation between the two claimants and that no further disbursement of compensation should be made. Further, the CALA was also directed to submit action taken report to the arbitrator by 24.08.2023. The learned counsel submits that as directed by the arbitrator, no action taken report has been submitted by the CALA till date. However, the review petitioner being aggrieved with the Order dated 12.05.2023 has filed the instant review petition seeking review of the said order.

[4.] Mr. Zoramchhana, learned counsel for the respondent No. 1, on the other hand, submits that pursuant to the order passed by this Court on 12.05.2023 in WP(C) No.

37/2023, the awarded amount of compensation has already been disbursed to the writ petitioner. He submits that the review petition, in fact is not maintainable due to the fact that the review petitioner was not even a party to the acquisition proceedings. He submits that the competent authority had issued various notifications under Section 3A, B, C, D & E of the National Highways Act, 1956 inviting the objections from all interested parties but the review petitioner remain silent all along. He submits that the steps taken by the review petitioner in approaching the arbitrator is also without any basis since he was not even a party to the acquisition proceedings. Referring to Section 3G(5) of the National Highways Act, 1956, the learned counsel submits that in the event, the amount determined by the competent authority as compensation is not acceptable to either of the parties, the amount shall, on an application by either of the parties be determine by the arbitrator appointed by the Central Government. Therefore, the review petitioner not being a party and moreover, there being no dispute regarding the amount assessed by the concerned authority, an arbitration does not lie. The learned counsel further submits that if the review petitioner has any claim on the assessed compensation either wholly or in part, he can file an application before the CALA/competent authority under Section 3H(4) of the National Highways Act, 1956 and on being satisfied about there being a genuine dispute, the CALA may refer the matter to the Principal, Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. However, the same having not been done, there is no ground for reviewing the order of this Court as prayed for by the review

petitioner and the review petition should be dismissed.

[5.] Mr. P.C Lalhangmawia, learned Government Advocate also adopts the argument made by Mr. Zoramchhana and submits that there is no ground for reviewing the Order dated 12.05.2023 passed by this Court.

[6.] Upon hearing the learned counsels for the rival parties and upon perusal of the materials available on record including the relevant provision of the National Highways Act, 1956, this Court is of the view that no ground for review is made out. Even if this Court is informed about the pendency of the arbitration application filed by the review petitioner before the arbitrator, considering the provisions of Section 3G(5) of the National Highways Act, 1956, no case can be made out by the review petitioner. The only remedy which perhaps may be available to the review petitioner is to file an application under the 3H(4) of the same Act which is regarding the apportionment of the award. The learned counsel for the review petitioner has also submitted that the review petitioner had filed an application before CALA for apportionment of the award but the same was not considered by the said authority. Be that as it may, in view of the provision of Section 3H(4) of the National Highways Act, 1956, the review petitioner will be at liberty to approach the competent authority with a fresh appropriate application for apportionment of the award within 1 (one) month from today, if so advised. In the event, such an application is filed by the review petitioner, the competent authority shall consider the same and proceed with the matter in accordance with law and in terms of the relevant provisions of the National Highways

Act, 1956.

[7.] With the above observation and direction, the Review Petition stands disposed of.

JUDGE

Comparing Assistant