

GAHC030005532022



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

Case No. : WP(C)/138/2022

Sh. Lalthlamuana (L) r/b his son R. Ruatzauva
R/o Puilo, Khawzawl District, Mizoram.

VERSUS

The State of Mizoram and 8 Ors.
r/b the Chief Secretary to the Govt. of Mizoram. 2:The Secretary to the Govt. of
Mizora
Land Revenue and Settlement Department
Aizawl.

3:The Secretary/Commissioner
Finance Department
Govt. of Mizoram
Aizawl.

4:The Deputy Commissioner
Khawzawl District
Mizoram.

5:The Additional Deputy Commissioner (CALA)
Khawzawl District
Mizoram.

6:Union of India r/b the Secretary to the Ministry of Road Transport and Highways
Govt. of India
Transport Bhawan
1
Parliament Street
New Delhi - 110001

7:NHIDCL r/b Managing Director
Corporate Officer
3rd Flooe

PTI Building
4
Parliament Street
New Delhi - 1100001

8:General Manager (LA0 NHIDCL
Regional Office
Tuikhuahtlang
Aizawl
Mizoram.

9:The Director
Land Revenue and Settlement
Khawzawl District
Mizoram

Advocate for the Petitioner : Mr. Johny L Tochhawng

Advocate for the Respondent : Ms. Zairemsangpuii, CGC for R6

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

04.04.2023

Heard Mr. Johny L Tochhawng, learned counsel for the petitioner, Mrs. H Lalmalsawmi, learned Government Advocate appearing for the State respondent Nos. 1 to 5, Ms. Zairemsangpuii, learned CGC appears for respondent No. 6 and Mr. Samuel Vanlalhriata Chhangte, learned counsel appearing for respondent Nos. 7 & 8.

[2.] The learned counsel for the petitioner submits that the petitioner has filed the instant writ petition, seeking compensation for the damages caused to his land by the

respondent authorities while constructing the National Highway No-6 km 61.01 to km 93.20 at Puilo village in the district of Khawzawl. The learned counsel submits that for the construction of the highway, the respondent authorities concerned made an award for compensation under Section 3G & 3H of the National Highways Act, 1956 by issuing Order dated 10.08.2021. However, the name of the petitioner was not included in the award despite the fact that he sustained damages in his land. The learned counsel further submits that the petitioner, before coming to this Court, submitted a representation before the respondent authorities i.e., respondent Nos. 4, 5, 6, 7 & 8, on 02.06.2022. However, despite receiving the representation, the respondent authorities have not considered and disposed of the petitioner's representation. As such, the petitioner is before this Court.

[3.] From a perusal of the claim made by the petitioner, it is seen that the petitioner has made a claim for damage compensation in view of the alleged destruction of his land, due to the digging and dumping of earth spoils over his land by the respondent authorities in constructing the road. In order to make such a claim, a remedy is available by way of filing appropriate Suit before the competent Court. Although the respondents have not filed their counter affidavit, the nature of the claim will invariably involve disputed question of fact. In other words, even if the respondents are found to have caused destruction to the land of the petitioner, the further question that would arise is the extent of the damage, the types of plantation/vegetation that has been destroyed in the process etc.

[4.] Mr. Johnny L. Tochhawng, the learned counsel for the petitioner submits that he may be allowed to withdraw the writ petition and to approach the competent Civil Court.

[5.] In view of above, the writ petition stands disposed of as withdrawn with liberty to the petitioner to approach the competent forum, as may be permissible in law.

JUDGE

Comparing Assistant