

GAHC030004312023



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

Case No. : WP(C)/101/2023

Sh. P. Lalthlamuana s/b his legally wedded wife Smt. Lalhmingliani
S/o P. Saichhunga (L)
R/o Tlabung Venglai, Lunglei District, Mizoram

VERSUS

The Regional Manager, State Bank of India and 3 Ors.
Regional Business Office, Babutlang, Aizawl

2: The Branch Manager
State Bank of India
Tlabung Branch
Tlabung

3: The Union of India R/b the Secretary to the Govt. of India
Ministry of Road Transport and Highways
Office Address - 1
Transport Bhawan
Sansad Marg
Parliament Street
New Delhi-110001

4: The Addl. Deputy Commissioner and CALA (NH54A and 302)
Lunglei District
Lunglei
Mizora

Advocate for the Petitioner : Ms. Jacinta Zothanmawii

Advocate for the Respondent : Ms Zairemsangpuui, CGC for R3

Linked Case : I.A.(Civil)/118/2023

Sh. P. Lalthlamuana substituted by his legally wedded wife Smt. Lalhminglianii
S/o P. Saichhunga(L)
R/o Tlabung Venglai
Lunglei District
Mizoram

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4:The Addl. Deputy Commissioner and CALA (NH54A and 302)
Lunglei District
Lunglei
Mizoram

Advocate for the Petitioner : Ms. Jacinta Zothanmawii
Advocate for the Respondent : Ms Zairemsangpuii
CGC for R3

Linked Case : I.A.(Civil)/144/2023

Smt. Lalhminglianii W/o P. Lalthlamuana (L)
R/o Tlabung Venglai
Lunglei District

Mizoram

VERSUS

The Regional Manager
State Bank of India
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4:The Addl. Deputy Commissioner and CALA (NH54A and 302)
Lunglei District
Lunglei
Mizoram

Advocate for the Petitioner : Ms. Jacinta Zothanmawii
Advocate for the Respondent : Ms Zairemsangpuui
CGC for R3

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

Date : 22.03.2024

Heard Ms. Jacinta Zothanmawii, learned counsel for the petitioner. Also heard Ms. Zairemsangpuui, learned CGC for the respondent No. 3 and Mr. Zodinpuia Hnamte, learned counsel for the respondents No. 1 & 2.

The respondent No. 4 was issued notice by this Court earlier and also thereafter, service by way of dasti was also permitted to be undertaken by the petitioner. Pursuant to the order passed by the Court permitting the petitioner to serve Notice by dasti service, the same has also been carried out and the petitioner has also filed an affidavit stating that the service has been undertaken on the respondent No. 4. However, none represents the respondent No. 4 as on date.

The petitioner was informed by the SBI vide communication dated 23.06.2023 (Annexure-6 of the writ petition) that the savings Bank Account belonging to the petitioner bearing No. 33016762571 has been freezed on 24.05.2023 on the basis of a letter received by the Bank from the respondent No. 4. A copy of the communication received from the respondent No. 4 was also furnished to the petitioner. The said communication was issued on 22.05.2023 by the respondent No. 4 whereby the Chief Manager, SBI was requested to put on hold any transactions from the Savings Bank Account No. 33016762571 standing in the name of the petitioner as the full amount of Rs. 37,17,672/- (Rupees Thirty Seven Lakhs Seventeen Thousand Six Hundred Seventy Two Only) stated to be the compensation amount for acquisition of the land in connection with construction of NH-302 Project has been credited mistakenly. Pursuant to receipt of the letter, the SBI freezed the Savings Bank Account of the petitioner bearing No. 33016762571.

It is submitted by the learned counsel for the petitioner that the impugned order by which the State Bank put on hold the transactions relating to the said Bank Account has caused immense difficulties and hardship to the petitioner. The learned counsel for the petitioner also submits that the statement made by the CALA/respondent No. 4 that the amount of Rs. 37,17,672/-(Rupees Thirty

Seven Lakhs Seventeen Thousand Six Hundred Seventy Two Only) was wrongly credited is not a correct statement. Referring to the Section 34G estimates for acquisition of land, Annexure- 5 filed in the writ petition, the learned counsel for the petitioner submits that at Serial No. 185, the names of the petitioner, appears and the total amount of compensation to be paid is shown as Rs. 37,17,672/-(Rupees Thirty Seven Lakhs Seventeen Thousand Six Hundred Seventy Two Only). The learned counsel for the petitioner has also referred to the details of the survey report which was enclosed to the petition as Annexure- 3. At Sl. No. 288, name of the petitioner appeared alongwith the Bank Account in standing in the name of the petitioner. It is therefore submitted that under such circumstances, the respondent No. 4 could not have sought for restraining the operation of the Savings Bank Account of the petitioner and as a consequence thereof she is not able to operate her bank account.

The learned counsel appearing for the SBI submits that the Bank Account has been freezed only on the request made by the respondent No. 4.

The learned counsel for the respondent No. 3 submits that the CALA is an authority specifically defined under the National Highways Authority Act and is an independent authority and therefore, the CGC does not to represent the respondent No. 4 unless such instructions are received.

Having heard the learned counsel for the parties and also upon perusal of the orders passed by the Court as well as by the affidavit filed in the present proceeding, it is seen that Notices were issued on respondent No. 4 and also dasti service was also taken. However, the respondent No. 4 has not appeared before this Court.

The learned Government Advocate also expressed inability to represent the

respondent No. 4 in the absence of any specific instructions. Similar submissions are also made by the learned CGC.

Under such circumstances, this Court is of the view that the restraint order issued by the SBI only on the basis of the request made by the CALA does not appear to be proper. The SBI authorities has also filed their affidavit stating that the Savings Bank Account has been freezed only on the request made by the respondent No. 4.

Having heard the learned counsel for the parties and upon careful perusal of the pleadings on records, prima facie, it appears that the amount of Rs. 37,17,672/-(Rupees Thity Seven Lakhs Seventeen Thousand Six Hundred Seventy Two Only) has been the amount decided by the respondent No. 4 and the other competent authorities as the adequate compensation is required to be paid to the petitioner for acquisition of a land.

Under such circumstances, this Court is prima facie of the considered view that till the next date, the petitioner should be allowed to operate the Savings Bank Account No. 33016762571, subject, however, to furnishing an undertaking before the Bank that in the event any adverse order is passed in this proceedings, the petitioner will be required to refund the amount as may be decided by the Court and the respondent No. 4 will also be entitled to recover the same by due process of law.

Accordingly let the matter be listed again on 24.04.2024 for further orders.

JUDGE

Comparing Assistant