

GAHC020000702017



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

Case No. : WP(C)/236/2017

REPASOSANG (AO)
S/O LT.SAKULEMBA AO,PERMANENT R/O DUNCAN BOSTI,WEST P.S

VERSUS

1) STATE OF NAGALAND AND 8 ORS
THROUGH THE SECY,LAND REVENUE DEPT.

2) COMMISSIONER OF N/L AND EX-OFFICIO DIRECTOR OF LAND
REVENUE
KOHIMA

3) DEPUTY COMMISSIONER, DIMAPUR NAGALAND
DIMAPUR

4) ADDL. SECRETARY(HOME)
KOHIMA

5) HENOK BAUCHEM PHOM
DEPUTY SECY,HEALTH AND FAMILY WELFARE DEPT.

6) UNION OF INDIA THROUGH THE SECY TO THE GOVT.OF INDIA.
MINISTRY OF HOME AFFAIRS,SOUTH BLOCK,NEW DELHI

7) DIRECTOR GENERAL OF CRPF.
CDU COMPLEX,LODHI ROAD,NEW DELHI

8) DEPUTY INSPECTOR GENERAL OF POLICE,CRPF
KOHIMA

9) THE 173 BN,CRPF
THROUGH ITS COMMANDANT,AIRFIELD,DIMAPUR

Advocate for the Petitioner : LIMAWAPANG

Advocate for the Respondent : GOVT ADV NL (R 1-3)

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

JUDGMENT & ORDER
(CAV)

Date : 29-11-2023

Heard Mr. Tali Ao, learned counsel for the petitioner and also heard Ms. V. Suokhrie, learned Additional AG for the respondent Nos. 1 to 3 and Mr. Z. N. Ngullie, learned CGC for respondent Nos. 6 to 9.

2. By filing this writ petition, the petitioner has challenged the impugned order dated 27.02.2017 passed by the Deputy Commissioner, Dimapur by which the petitioner's application claiming solatium and interest in land compensation dated 14.07.2016 has been dismissed by holding that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short RFCTLARR Act, 2013) is not applicable in the State of Nagaland as the Legislative Assembly of Nagaland has not taken any decision with regard to the RFCTLARR Act, 2013 in terms of Article 371A (iv) of the Constitution of India. The petitioner has also prayed for a direction to the respondent authorities to grant solatium and interest to the compensation amount under Section 30(1) (3) of the RFCTLARR Act, 2013.

3. The facts of the case, shorn of unnecessary details, are

that in the year 2009-10, the Deputy Commissioner, Dimapur initiated acquisition of land of 43 persons measuring 14.21 Acres including petitioner's land situated under Ward-12 of Dimapur Municipal Council for the use of CRPF Transit Camp at Dimapur Town which is in CRPF occupation since 1987. Part of the land measuring 25 bighas was the patta land of the petitioner's father which he has inherited the ownership which was initially used for jhum cultivation and during the course of time converted to permanent farming and domestic animals breeding farm. Due to assignment of wrong Dag number some private individuals claimed right over the land for which the petitioner instituted a suit which has been decreed in favour of him in 1992. Though initially it was of 25 bighas, the final corrected land patta in terms of the decree issued to the petitioner in the year 2010 was for an area of 16 bighas only.

4. The land acquisition proposal and estimate submitted by the Deputy Commissioner, Dimapur for land measuring 14.21 Acres @Rs. 350.00 per Square feet which comes to a total of Rs. 21,27,20,000 (Rupees Twenty One Crores Twenty Seven Lakhs and Twenty Thousand) Only was approved by the State Land Acquisition Authority (SLAA) only on 13.06.2016. The petitioner submitted an application dated 14.07.2016 before the DC, Dimapur, requesting to pass award under the provisions of RFCTLARR Act, 2013. The relief pressed before the DC was limited only to solatium and interest since market value assessed compensation amount have been already deposited with the Deputy Commissioner, Dimapur by the CRPF. However, the Deputy Commissioner declined to entertain the

petitioner's application and dismissed the same by impugned order dated 27.02,2017 on the ground that under Article 371A of the Constitution of India, application of Central Law in matters of ownership and transfer of land and its resources has been exempted and the State Government has not adopted the RFCTLARR Act, 2013 as on date.

5. After the dismissal of the application of the petitioner claiming solatium and interest on the assessed land compensation of the petitioner, the Deputy Commissioner had issued a notice vide letter dated 28.02.2017 whereby 43 land owners were directed to appear in person and collect their respective compensation amount on 06.03.2017 along with the respective land patta in original and other necessary documents. On such notice, the petitioner along with others have entered into an agreement with the Deputy Commissioner, Dimapur by way of sale deed for land acquisition for the establishment of CRPF Transit Camp at Dimapur Town. Accordingly, the petitioner received the land compensation amounting to Rs. 8,06,40,000/- (Rupees eight crore six lakh and forty thousand) only on 06.03.2017. Thereafter, the petitioner submitted an application dated 10.03.2017 to the Deputy Commissioner, stated to be a protest letter, for not awarding solatium and interest on the assessed market value land compensation amount of the petitioner.

6. Besides submission of the purported protest application, the petitioner also questions the validity of the sale deed entered into between the Deputy Commissioner and the petitioner by stating that it was not made known to the petitioner the contents of those

documents for which the petitioner has submitted the letter dated 28.09.2017 informing the respondent authorities to treat the impugned sale deed and undertaking as null and void and contended that the petitioner is not bound by any contents of those documents being tainted with fraud and ultra vires of law.

7. According to the petitioner, he was on the honest belief that it was for receipt of the land compensation, therefore the petitioner and other accompanying persons signed those documents. According to the petitioner, it is only in the earlier writ petition being WP(C) No. 39(K) of 2017 when the counter-affidavit filed by the State respondents was received and explained by its counsel, the petitioner came to know that those documents were sale deed and the undertaking for the use of establishment of CRPF Transit Camp which also contains categorically that the petitioner shall not re-claim any further land compensation amount.

8. The contention of the petitioner is that the Land Acquisition Act, 1894 has been repealed and substituted by the RFCTLARR Act, 2013 with effect from 01.01.2014. Since the land acquisition proposal and estimate was approved by the State Land Acquisition Authority only on 13.06.2016 and the petitioner submitted an application dated 14.07.2016 before the Deputy Commissioner, Dimapur requesting to pass award under the provisions of the RFCTLARR Act, 2013, award ought to have been passed by Deputy Commissioner granting solatium and interest as per the provisions of the RFCTLARR Act, 2013.

9. According to the petitioner, the Land Acquisition Act, 1894 had its application in the State of Nagaland right since the erstwhile

Naga Hills District. The Nagaland Land (Requisition and Acquisition) Act, 1965 has its limited application in as much as it has to be applied only for the purposes specified in Section 3 (1) of the Act. Unless resorted to speedy requisition, acquisition of land under the Nagaland Land (Requisition and Acquisition) Act, 1965, its provisions would not apply to the case of the petitioner as it is limited to those already requisitioned land only. The petitioner's case is neither a case of speedy requisition nor acquisition of already requisitioned land or for any of the purposes specified under the 1965 Act. Therefore, the case of the petitioner is squarely covered by the 1894 Act followed by the RFCTLARR Act, 2013 which has its application in the whole of India. According to the petitioner, the purported sale deed and undertaking are fraudulent document and the same are also ultra vires of the law in as much as land acquisition is different than sale transactions. Hence, by way of this present writ petition, the petitioner has assailed the impugned order dated 27.02.2017 passed by the Deputy Commissioner, Dimapur and a further prayer for a direction to grant solatium and interest for the compensation amount of the petitioner.

10. Mr. Tali Ao, learned counsel for the petitioner submits that the provisions of the Nagaland Land (Requisition and Acquisition) Act, 1956, (In short, Act of 1965) have no application, since the Act of 1965 provides requisition followed by acquisition unless resorted to the urgency provisions for direct acquisition. Acquisition of land for use of CRPF i.e. Central Government is also outside the provisions of the Act of 1965. Requirement of Government approval is also not provided for making the award. He submits that the application of Land Acquisition

Act, 1894 in Nagaland is the continuation right from the erstwhile Naga Hills Tuensang Area.

11. He submits that the land acquisition proposal submitted by DC, Dimapur, was approved by the State Government, vide Meeting of Minutes dated 13.06.2016 of the State Land Acquisition Authority (SLAA) Additional Agenda Sl.No.5, issued vide Office Memorandum dated 07.07.2016. Thus, the DC, Dimapur, is deemed to have sought for approval of the land acquisition proposal by the Government under the First Proviso to Section 11 (1) of the Act of 1894.

12. Mr. Tali Ao, learned counsel for the petitioner submits that in the instant case, the RFCTLARR Act, 2013 is applicable to the whole of India and State of Nagaland is no exception to the said whole of India. The case of the petitioner is not at all for ownership and transfer of land and its resources, however, it is categorically and exclusively for claims of statutory entitlements for the land acquired. Therefore, such claims of statutory benefits cannot be considered to be barred under any provisions of law including Article 371A (a) (iv) of the Constitution of India. It is submitted that other than the grievances of the petitioner, the legality, validity and propriety of the land acquisition including its approval by the Government remains unchallenged. Therefore, what remains to be done is to award solatium, cost of escalation of the land price and interest which are statutory entitlements for the land acquired.

13. The learned counsel for the petitioner submits that if at all, it is the case of the respondents that the RFCTLARR Act, 2013 have no application to Nagaland in view of Article 371A (a) (iv) of the

Constitution, the same is the own view of the Government having no statutory binding in as much as the RFCTLARR Act, 2013 is applicable to the whole of India and the interpretation and opinion of the Government in Constitutional and legal provisions have no binding force of law. In fact, so far, there is no challenge in any appropriate proceedings before any appropriate forum against Section 1 (2) of the RFCTLARR Act, 2013 which provides its application extending to the whole of India. Therefore, when the vires of the said provisions of the RFCTLARR Act, 2013 remains unchallenged in any appropriate proceeding, it would be highly erroneous and fallacious to ignore the law on the ground that the Nagaland Legislative Assembly has not by resolution adapted the said RFCTLARR Act, 2013. He submits that when the Parliament has enacted the law extending its application to the whole of India, it would be an absurd view that the RFCTLARR Act, 2013 has no application in Nagaland since the Nagaland Legislative Assembly has not passed any resolution to adapt the said Act. In other words, when the law enacted by the Parliament extend its application to the whole of India, it would be a matter of mere dramatization to pass a resolution adapting the said law in the State.

14. Mr. Tali Ao, learned counsel for the petitioner submits that in the absence of challenge by instituting appropriate proceedings before appropriate forum against the provisions of Section 1 (2) of the Act of 2013 to be ultra vires of Article 371A (a)(iv) of the Constitution, the enforcement of the RFCTLARR Act, 2013 in the whole of India remains unchallenged and by seeking protection under the provisions of the Constitution, resisting the claims of the petitioner for statutory

entitlements have no legal binding to deny solatium, escalation of the price of the land and interest to the petitioner. He submits that so far as the application of the RFCTLARR Act, 2013 is concerned, in the case of **Kejanglwa Village Vs. The State of Nagaland and 3 others**, decided by a coordinate bench of this Hon'ble Gauhati High Court, vide Judgement and Order dated 01-03-2022 passed in C. REVN. 2/2019, which is also a land acquisition case in the District of Peren, Nagaland, under the Nagaland Land (Requisition and Acquisition) Act, 1965, it was held that the landowners are entitled for assessment and determination of compensation under the RFCTLARR Act, 2013.

15. The learned counsel for the petitioner submits that vide Notice dated 21.01.2016, the Deputy Commissioner, Dimapur, directed the landowners to convey willingness to accept the land compensation amount. Thereupon, the petitioner conveyed conditional acceptance of the land compensation subject to final award. Thereafter, cheque amounting to Rs 8,06,40,000/- for the market value assessed land compensation was released to the petitioner on 06.03.2017. The acceptance of the market value assessed compensation was under protest which are envisaged under the First Proviso to Section 31(2) of the Act of 1894, and the First Proviso to Section 77 (2) of the Act of 2013.

16. The learned counsel for the petitioner submits that it was in an earlier writ petition W.P.(C) No.39 (K) of 2017 filed by the petitioner, when copy of the counter affidavit of the State Respondents was received, the petitioner through his counsel came to know that the computer typed written non-judicial stamp papers on which they were

made to sign by respondent No.5 to receive the land compensation amount was a sale deed and an undertaking in respect of the petitioner's land which was acquired for use of the CPRF, and the said documents were shown as registered under the seal and signature of respondent No.5 as Sub-Registrar.

17. The learned counsel for the petitioner submits that in the purported Sale Deed dated 06.03.2017, the Government of Nagaland has been described as the Purchaser/Vendee and represented by respondent No. 3 the Deputy Commissioner, Dimapur. Thus, following discovery of the purported sale deed and undertaking the petitioner through his counsel by filling RTI application on 11.09.2017 before the PIO in the office of the Secretary to the Government of Nagaland, Department of Land Revenue, sought information as to the authority of respondent No.3 to prepare, sign/execute for/on behalf of the State Government any land sale deed for acquisition of land owned by private parties for CPRF Transit Camp in Dimapur. Thereupon, vide Letter dated 22.09.2017, the said PIO replied that the Government vide Letter dated 28.07.2016 instructed respondent No.3 through respondent No.2 for acquisition of land owned by private parties and leasing out the land to CRPF as per existing Government policy.

18. Mr. Tali Ao, learned counsel for the petitioner submits that in the instant case the purported sale deed and undertaking both dated 06-03-2017 were prepared by respondent No.5 without information, knowledge, authorization and instruction of the petitioner wherein the petitioner is shown as Seller/Vendors, and in the purported undertaking, the petitioner is described as the Undertaking

person/Landowner/Beneficiary. So also, the Government of Nagaland which is the Governor of Nagaland in terms of Section 3 (30) of The Nagaland Interpretation and General Clauses Act, 1978, has never directed or authorized respondent No.3 to purchase any private owned land in Dimapur for use of CRPF for/on behalf of the Government of Nagaland. The reply to the RTI application clearly shows that respondent No.3 was instructed by the Government for acquisition of land owned by private parties and leasing out the land to CRPF as per the existing Government policy. Notice was issued to respondent Nos. 3, 4 and 5 to treat the purported sale deed and undertaking as null and void in the facts and circumstances of the case. There was no response to the notice, and hence, the nullity and voidable of the purported sale deed and undertaking are of undisputed documents.

19. Mr. Tali Ao, learned counsel for the petitioner finally submits that the present case, apart from market value assessed compensation already paid to and received by the petitioner, the petitioner is also entitled to award of solatium amount, cost of escalation of market price of the land during the period of acquisition and interest on the compensation amount during the said period of acquisition as per the provisions of the RFCTLARR Act, 2013 as it is applicable in the State of Nagaland.

20. In support of his submissions, the learned counsel for the petitioner has relied on the following judgments:

- (i) **Prem Singh and other Versus Birbal and others**, reported in **(2006) 5 SCC 353**,
- (ii) **State of Haryana Versus Ram Singh**, reported in **(2001) 6**

SCC 254,

- (iii) **Sunder Versus Union of India**, reported in **(2001) 7 SCC 211,**
- (iv) **Narain Das Jain (deceased) by LRS vs. Agra Nagar Mahapalika, Agra**, reported in **(1991) 4 SCC 212,**
- (v) **State of Punjab vs. Amarjit Singh and Anr** reported in **(2011) 4 SCC 734,**
- (vi) **Collector of Kamrup Vs. Smti. Anandi Debi**, reported in **AIR 1987,Gauhati 13**
- (vii) **Nagpur Improvement Trust and Anr Vs. Vithal Rao and Ors**, reported in **(1973) 1 SCC 500**
- (viii) **Savitri Cairae Vs. U.P Avas Evam Vikas Parishad and Anr**, reported in **(2003) 6 SCC 355.**
- (ix) **State of Meghalaya and Ors Vs. Winkia Star Kharumlong and Ors**, reported in **AIR 2008, Gauhati 127.**

21. Per contra, Ms. V. Suokhrie, learned Additional AG for the respondent nos. 1 to 3 submits that the Deputy Commissioner, Dimapur was pleased to dismiss the application filed by the petitioner for grant of solatium and interest vide order dated 27-02-2017. Thereafter, notice dated 01-03-2017 was served to all the land owners including the petitioner to receive land compensation. It is the submission of Learned Additional AG that there is no any concrete ground to challenge the aforesaid order and notice in as much as the Legislative Assembly of Nagaland is yet to pass a resolution extending the RFCTLARR Act, 2013 in the State of Nagaland.

22. Ms. V. Suokhrie, learned Additional AG submits that the entire acquired land measuring 14.21 Acres was under physical occupation of

CRPF for the last so many years. Therefore, all the land owners including the petitioner voluntarily and willingly sale the land to the respondent by executing Sale Deed dated 06.03.2017 which was duly registered vide Regd. No.SD-04/17 dated 21.04.2017. The petitioner also voluntary made an Undertaking on 06.03.2017 to the effect that he and his family members inclusive of his legal heirs or legal counsel etc. shall not reclaim and objection over the land on which he has been compensated for the purpose of establishment of CRPF Transit Camp at Dimapur Town. Thereafter, the petitioner received an amount of Rs. 8,06,40,000/- (Rupees Eight Crore Six Lakhs and Forty Thousand) only, as land compensation from the respondent vide actual payment receipt dated 06.03.2017. It is, therefore, submitted that there is no ground to challenge the Sale Deed and Undertaking.

23. The learned Addl AG submits that the petitioner filed an application under section 23, 24, 26 and 30 of the RFCTLARR Act, 2013. She submits that the Nagaland Legislative Assembly is yet to pass a resolution for extending the aforesaid Act in the State of Nagaland. She submits that the Under Secretary to the Government of Nagaland, Department of Land Revenue informed vide letter dated 15-09-2017 that the State is yet to adopt the RFCTLARR Act, 2013 in the State of Nagaland. Thus, the RFCTLARR Act, 2013 under which the petitioner claims for grant of solatium and interest is yet to be extended to the State of Nagaland in terms of the provisions of Article 371 A (1)(iv) of the Constitution of India.

24. The learned Addl. AG submits that the respondent released the amount of land compensation to the petitioner through the Revenue

Officer on the same day i.e., 06.03.2017 vide actual payment receipt cheque No. 517784 dated 06.03.2017. She submits that among the 43 land owners, the present petitioner received the highest amount of land compensation amounting to Rs. 8, 06,40,000/- (Rupees Eight Crore Six Lakhs Forty Thousand) only. It is also stated that the rest 42 land owners willingly accepted the land compensation without any objection. The land of the petitioner also falls within the same area of other 42 land owners. Therefore, it is submitted that the case of the petitioner may be treated like other 42 land owners.

25. The learned Addl. AG submits that the petitioner has voluntarily and willingly made an undertaking that he and his family members inclusive of his legal heirs or legal counsel shall not re-claim or make any further claim and objection. She submits that the petitioner took an undertaking with a view to receive the amount of land compensation from the respondent. Therefore, the petitioners as well as the witnesses are very much aware of the contents of computer type written non-judicial stamped paper.

26. The learned Addl. AG submits that the acquired land falls within the jurisdiction of the Deputy Commissioner, Dimapur. The Deputy Commissioner, Dimapur has taken necessary steps for and on behalf of the State of Nagaland for acquiring the said land for CRPF Transit Camp. It is therefore, submitted that the Deputy Commissioner, Dimapur is competent to represent the State of Nagaland to execute Sale Deed for acquisition of Land for CRPF Transit Camp.

27. Ms. V. Suokhrie, learned Addl. AG submits that all the land owners including the petitioner willingly executed Sale Deed and in the

case of present petitioner, he made an undertaking that he and his family members inclusive of his legal heirs or legal counsel shall not reclaim or make any further claim and objection over the land on which he has been compensated. The respondent released the payment of land compensation to all the land owners including the present petitioner after he made an undertaking. It is therefore, submitted that the sale deed and undertaking cannot be treated as null and void and all the owners including the present petitioner are bound by the sale deed and undertaking.

28. The learned Addl. AG submits that the Land Acquisition Act of 1894 has been repealed and the new Act, the RFCTLARR Act, 2013 is yet to be adopted by the Nagaland Legislative Assembly. It is therefore, submitted that the order dated 27.02.2017 passed by the Deputy Commissioner, Dimapur cannot be considered as erroneous, illegal and against the law. It is further submitted that the Deputy Commissioner, Dimapur cannot pass an order awarding solatium and interest under an Act which is not enforced in the State of Nagaland.

29. Ms. V. Suokhrie, learned Addl. AG submits that the chapter of land compensation is closed after the petitioner received final payment of land compensation amounting to Rs. 8,06,40,000/- (Rupees Eight Crores Six Lakhs Forty Thousand) only vide actual payment receipt dated 06.03.2017. It is therefore, submitted that the question of fresh assessment of land compensation under the provisions of the RFCTLARR Act, 2013 does not arise.

30. The learned Addl. AG submits that the petitioner is not questioning the acquisition proceeding of his land rather the

petitioner, by his letter dated 11.07.2012 to the Deputy Commissioner, Dimapur stated that he has no objection for acquisition and requisition of 16 bighas of his land for CRPF Transit Camp. On 28.10.2016, the petitioner wrote to the Deputy Commissioner, Dimapur tendering his acceptance for release of the land compensation amount deposited by the CRPF. On 19.12.2016 and 11.01.2017, the petitioner's counsel requested the Deputy Commissioner, Dimapur to release the land compensation amount assessed at market rate which was already deposited by the Central Government in October 2016 to his client, the petitioner, without any further delay.

31. Ms. V. Suokhrie, the learned Addl. AG submits that Article 371(A)(iv) provides that notwithstanding anything in this constitution, no act of Parliament in respect of ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides therefore, when the State Legislative Assembly has not adopted the Central Act till date, there is no illegality in the decision passed by the Deputy Commissioner as the Act is not applicable in the State of Nagaland.

32. The learned Addl. AG submits that the State is yet to adopt the RFCTLARR Act, 2013, the question of solatium and interest as prayed for by the petitioner does not arise. Hence, no writ of mandamus can be issued by this Hon'ble Court to the State respondents to act contrary to law, therefore, the writ petition is devoid of merit and liable to be dismissed.

33. Mr. Z. N. Ngullie, learned CGC for the respondent nos. 6 to 9

submits that NOC and all other required documents have been received from Deputy Commissioner, Dimapur. Demand draft for Rs. 21,67,20,000/- on account of cost of land for Transit Camp Dimapur has been deposited in favour of Deputy Commissioner, Dimapur (Nagaland) on 13.10.2016. Acknowledgement of the amount has been received from Deputy Commissioner, Dimapur (Nagaland). As informed by Deputy Commissioner, Dimapur, land compensation application dated 14.07.2016 filed by petitioner against the union of India/CRPF regarding land acquisition for establishment of CRPF Transit Camp at Dimapur Town has been dismissed vide order No. REV-7/2014-D/3501/02 dated 27/02/2017. As per confirmation from the Deputy Commissioner Office Dimapur, Nagaland that settlement payment has been completed to all the 43 landowners including the petitioner and money receipts of all the landowners have also been provided to the CRPF in which the petitioner has been paid a sum of Rs. 8,06,40,000/- by Deputy Commissioner, Dimapur vide cheque No.517784 dated 06/03/2017 and the same has been accepted by him and signature affixed on the revenue stamp in token receipt of money has also been given by the petitioner.

34. Mr. Z. N. Ngullie, learned CGC submits that as per decision taken by the State Authority after due consultation with CRPF and all the 43 land owners including petitioner during 2010, the process for acquisition of land measuring 14.21 Acres at Dimapur Town started judiciously. The State Govt of Nagaland has approved acquisition of land measuring 14.21 Acres @Rs. 350.00 per Square feet which comes to a total of Rs. 21,27,20,000 (Rupees Twenty One Crores

Twenty Seven Lakhs and Twenty Thousand) Only. Subsequently, the total amount of Rs. 21,27,20,000/- as per rate finalised has already been paid to Revenue Office, Dimapur on 13.10.2016 vide bank draft No. 412567 dated 28.09.2016 by UOI/CRPF. He submits that this fact has already been brought in the notice of all the 43 landowners including petitioner and as agreed by the landowners the compensation amount has been disbursed to them by Deputy Commissioner, Dimapur, Nagaland.

35. The learned CGC submits that as all concerned landowners including the petitioner had conveyed their willingness to accept the land compensation amount as proposed by Deputy Commissioner, Dimapur as conveyed by Deputy Commissioner, Dimapur vide letter N. Rev-31/70-D dated 10.08.2012. Hence, question of re-measuring land at this belated stage not only justifiable but also waste of valuable time of Hon'ble Court of Law.

36. The learned CGC submits that previously, the land owner wanted compensation at the rate of present market value raised between the period of agreement and settlement of amount. Now, the petitioner wants additional compensation of land by claiming irrelevant provisions. As agreed upon with consent of all the land owners, 14.21 acres has been measured and handed over to CRPF by the State Govt. of Nagaland after the entire process was executed correctly in front of all the land owners. So the claim at this belated stage is not justifiable.

37. The learned CGC submits that based on the No objection letters and whole and sole consent of the landowners and after due

discussion in several meetings the land transfer was executed. The compensation so fixed after several meetings amounting to Rs. 8,06,40,000/- for the petitioner's land has been already paid vide cheque No. 517784 dated 06.03.2017. The Petitioner had submitted unconditional willingness of acceptance of compensation. Therefore, the claim of the petitioner is baseless and as such the present writ petition may be dismissed.

38. I have considered the rival submissions advanced by the learned counsels for the parties and the materials available on record.

39. The issues involved in the present writ petition are as to 1). whether the RFCTLARR Act, 2013 is applicable in the State of Nagaland sans recourse to special provision enshrined under Article 371 A (iv) of the Constitution of India 2). whether in view of Section 1 (2) of the RFCTLARR Act, 2013, the Act is automatically applicable in the State of Nagaland. 3), if applicable, whether the petitioner is entitled to solatium and interest in respect of the land compensation amount received by him after entering into the agreement with a condition that the petitioner shall not reclaim or make further claims or objection with regard to the land of which he has agreed to part with for the purpose of establishment of CRPF Transit Camp in Dimapur Town.

40. It transpires that in the year 2010 State respondents after due consultation with the CRPF and all the 43 land owners including the petitioner, the process for acquisition of 14.21 acres at Dimapur Town for CRPF Transit Camp was initiated. The acquisition process was purely based on consultations and consent of all the stakeholders

including 43 land owners. Recourse has not been had to any provision of statutory law of land acquisition.

41. The respondent State has approved the acquisition of land measuring 14.21 acres at the rate of 350.00 per Sq. Mtrs which comes to a total of Rs. 21,67,20,000/- (Rupees twenty one crore sixty seven lakh twenty thousand only). Thereafter, the total amount of Rs. 21,67,20,000/- (Rupees twenty one crore sixty seven lakh twenty thousand) only as per the rate fixed was deposited on 13.06.2016 by the CRPF. The Deputy Commissioner issued the notice to the 43 land owners including the petitioner and as agreed to by the land owners, the compensation amount was disbursed to them by the Deputy Commissioner, Dimapur.

42. The petitioner along with the other 42 land owners have accepted the land compensation amount as assessed by the State respondents and the petitioner has received Rs. 8,06,40,000/- (Rupees eight crore six lakh forty thousand) only on 06.03.2017 without there being any objection to such assessed compensation amount. The payment of the compensation amount was made after the agreement was entered into between the land owners and the Deputy Commissioner, Dimapur.

43. It is noticed that the petitioner has filed an application through his learned counsel stating that despite claims for interest and solatium, no award other than the market value assessed compensation has been awarded and paid under the RFCTLARR Act, 2013 post receipt and accepted the compensation amount of Rs. 8,06,40,000/- (Rupees eight crore six lakh forty thousand) only. It is

not disputed that during the pendency of the acquisition proceedings, the petitioner has filed a petition for granting solatium and interest on the assessed compensation amount of the petitioner as per the provisions of the RFCTLARR Act, 2013. The Deputy Commissioner after considering the grievances raised by the petitioner in the application has dismissed the petition on the ground that the RFCTLARR Act, 2013 is not applicable in view of the fact that the Nagaland State Legislative Assembly has not passed any resolution adopting the RFCTLARR Act, 2013 as per Article 371A (iv) of the Constitution of India.

44. It is also not disputed that the Land Acquisition Act of 1894, a colonial era law, was adapted by the State of Nagaland vide its adaption of laws for the district of Kohima and Mokokchung only, proprio vigore.

45. The RFCTLARR Act, 2013 was enacted by the Parliament of India which has come into force w.e.f. 01.01.2014. As per section 1 (2) of the Act it is provided that it extends to the whole of India (Except the State of Jammu and Kashmir, the exception- has been omitted by the Jammu and Kashmir Reorganisation Act, 2019 w.e.f. 31.10.2019).

46. Article 371A of the constitution of India provides special provision for the State of Nagaland which I deem it apt to reproduce the relevant part herein below:

**'371A. Special provision with respect to the State of Nagaland-
Notwithstanding anything in this Constitution,—**

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas,

(ii) Naga customary law and procedure,

**(iii) administration of civil and criminal justice involving decisions according to Naga customary law,
(iv) ownership and transfer of land and its resources,
shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides."**

47. On bare reading of the above provision, it provides clearly that no Act of Parliament shall apply to the State of Nagaland in respect of, inter alia, ownership and transfer of land and its resources unless the State Legislative Assembly of Nagaland by a resolution so decides to that effect.

48. Earlier this Court has on occasions dealt with the historical preface of the creation of the State of Nagaland and the Act, 1962 assimilating Article 371A to the constitutional scheme of democratic governance of the country, which I find it apposite to rely and recapitulate. The nine point agreement between the Naga National Council and the then Governor of Assam was deliberated upon and inked during the 27th to 29th June, 1947 recognizing in unambiguous terms the right of the Naga People to develop themselves according to their freely expressed wishes. It was, inter alia, agreed upon that no law passed by the provincial or central legislature which would materially affect the terms of the agreement or the religious practices of the Nagas would have legal force in the Naga Hills without the consent of the Naga National Council. It was provided that in case of a dispute as to whether any law did so affect the agreement, the matter would be referred by the Naga National Council to the Governor who would then direct that the law in question would not have legal force in the Naga Hills pending the decision of the Central Government.

49. This consensus deliberation between the Naga People's Convention with the Foreign Secretary, Government of India in the year 1960 and the Sixteen Point agreement arrived at, clause-7 whereof predicated that no Act or law passed by the Union Parliament affecting the provisions pertaining, amongst others, to the religious or social practices of the Nagas and the Naga customary laws and procedure would have legal force in Nagaland unless specifically applied to it by a majority vote of the Nagaland Legislative Assembly.

50. The Statement of Objects and Reasons of the Constitution (Thirteenth) Amendment Bill, 1962 noticed this agreement under which it has been decided that the Naga Hills- Tuensang Area (Nagaland) then a 'Part-B' Tribal Area within the State of Assam was to be formed into a separate State under the Union of India, amongst others, with the afore referred regulation/restraint on the application of the Acts of Parliament on matters pertaining inter alia to religious or social practices of the Nagas and the Naga customary Law and Procedure. The Statement of Objects and reasons further recorded that these aspects were peculiar to the proposed new State of Nagaland warranting provision in respect thereto to be made in the Constitution itself. The proposed Bill thus sought to amend the Constitution to provide for these matters and those ancillary thereto. The statement of Objects and reasons also referred to a separate Bill for the formation of the new state relatable to Article 3 of the Constitution of India.

51. The Constitution (Thirteenth Amendment) Bill extends maximum autonomy to the Nagas in their internal affairs while

accepting their demand for a separate State. Article 371 A, the necessity of such a provision was affirmed in view of the special condition that prevailed in the area concerned. While dwelling on the essentiality of the independence and autonomy of the Naga people without interfering in any way in their internal affairs and ways of life as a guarantee to effectuate unity in diversity, the powers, limited though, of the Legislative Assembly as envisaged in the proposed constitutional provision was affirmatively ratified.

52. The debate on the Constitution Bill in the Rajya Sabha and Lok Sabha shows that it recalled the history of the Nagas, their traditions and cultural background to merit a different treatment. The Constitution (Thirteenth Amendment) Bill, 1962 were construed to be a yield of the realization of exigency of justice to these tribal brethren of the nation who had their own form of democracy governing their respective tribes being guided by their customs and religious beliefs and practices demanding safeguard thereof through conferment of autonomy deserved by them.

53. Article 371A is substantially a replica of the corresponding clauses of the agreements referred to herein above qua the application of the Acts of Parliament to the State and reiterated in the Statement of Objects and Reasons of the Constitution (Thirteenth Amendment) Bill, 1962.

54. On bare perusal of the contents of Article 371A in conjunction with the eventful background thereof does not, admit of the interpretation suggested on behalf of the petitioner that every Act of parliament, to start with, is applicable in the State of Nagaland on its

enactment unless the Legislative Assembly of the State by a resolution decides otherwise. Not only the text of Article 371A does not endorse this elucidation, the prefatory sequence of events does not sanction the same lest those stand obliterated. In contradistinction, the proposition that an Act of Parliament in respect of the themes set out in Article 371 A (1) (a) would apply to the State of Nagaland only if the Legislative Assembly of the State by a resolution so decides not only accords with the tenor, temper and sentiment of the architects of this constitutional provision with the singular outlook of ensuring maximum autonomy to the Naga community and the tribal State comprise of it, but also the language applied in harmony with the spirit and psyche thereof. The plea that in this unique contextual premise the framers of the constitution had visualized the innate obligation of the Legislative Assembly of the State of Nagaland to scrutinize every Act of Parliament envisaged in Article 371 A (1) (a) commends for acceptance.

55. Though the State of Nagaland by its adaptation of laws adapted the Land Acquisition Act, 1894, there is no resolution as on date of adapting the RFCTLARR Act, 2013 by the Legislative Assembly of Nagaland. As noted above, the Land Acquisition Act of 1894, a colonial era law, was adapted by the State of Nagaland vide its adaption of laws for the district of Kohima and Mokokchung only, proprio vigore. There is nothing on record to show that even after its adaptation the Land Acquisition Act, 1894 has been in fact applied in any area of State of Nagaland. Parliament has enacted the RFCTLARR Act, 2013 by repealing the Land Acquisition Act, 1894, a colonial era

law. Therefore, in my considered view the RFCTLARR Act, 2013 would not be applicable automatically in the State of Nagaland as a continuation of the Land Acquisition Act, 1894 just because same was adapted.

56. Having regard to the contention of the learned counsel for the petitioner that since section 1(2) of the RFCTLARR Act, 2013 provides that the Act extends to whole of India, thus it is automatically applicable to the State of Nagaland is too tenuous a submission to accept as it would amount to completely obliterating the special provision for State of Nagaland under Article 371A (a) which starts with a non-obstante clause and provides that (a) no Act of Parliament in respect of, inter alia, ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides. Besides that the State of Nagaland represented by the learned Addl. Advocate General categorically submitted, on written instruction, that State is yet to adopt the RFCTLARR Act, 2013 in the State of Nagaland.

57. Regard being had to questioning of sale deed or agreement and undertaking that had been entered into, it is difficult to accept the submissions of the learned counsel for the petitioner in as much as the petitioner has accepted the same voluntarily thereafter received the amount of compensation and it is unbelievable that the petitioner had no knowledge of the contents of the documents, moreover, it was not an isolated case rather involved another 42 land owners similarly situated.

58. I have perused the above case laws relied on by the learned

counsel for the petitioner and find them not applicable in the present case in view of the completely different contextual fact and law.

59. In view of the above discussion, this court is of the considered view that the RFCTLARR Act, 2013 would not be applicable in the State of Nagaland sans recourse to special provision enshrined under Article 371 A (a) (iv) of the Constitution of India and even though Section 1 (2) of the RFCTLARR Act, 2013, provides for extension of the Act to whole of the country, same would not have automatic applicable in the State of Nagaland.

60. Consequently, the issue No. 1 and 2 are answered in negative. Since issue No. 1 and 2 are answered not in affirmative the petitioner is not entitled to solatium and interest in respect of the land compensation amount received by him, besides the petitioner had entered into an agreement with a condition that the petitioner shall not reclaim or make further claims or objection with regard to the land of which he has agreed to part with for the purpose of establishment of CRPF Transit Camp in Dimapur Town. Even otherwise, land acquired in the present case was not under any statute but on agreed parameters between the parties and that too by way of sale.

61. This Court finds no infirmity in the impugned Order dated 27.02.2017 passed by the Deputy Commissioner, Dimapur, Nagaland. Therefore, there is no merit in the writ petition. Accordingly, the writ petition is dismissed. However, no order as to costs.

Sd/-
JUDGE

Comparing Assistant