



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

Case No. : WP(C)/87/2022

SHRI. WEBIDE
S/O WEZOKHO,
PERMANENT R/O LOSATEPHE VILLAGE,
DISTRICT - PHEK, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND, KOHIMA

2) THE COMMISSIONER,
NAGALAND, KOHIMA

3) THE DEPUTY COMMISSIONER,
PHEK, NAGALAND

4) THE SUB-DIVISIONAL OFFICER(CIVIL),
OFFICE OF THE DEPUTY COMMISSIONER, PHEK, NAGALAND

5) SHRI. KHROWETE LASUH,
CHAIRMAN, VILLAGE COUNCIL, LOSATEPHE VILLAGE,
P.O/P.S PHEK, DISTRICT - PHEK, NAGALAND

6) SHRI. WEPUTE KEPFOH,
S/O LT. DIPSULO, PERMANENT R/O LOSAMI VILLAGE, H/NO.44,
P.O/P.S PHEK, DISTRICT - PHEK, NAGALAND

Advocate for the Petitioner : TONGPOK PONGENER

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 07-12-2023

1. Heard Mr. Laknyei Phom, learned counsel for the petitioner. Also heard Mr. V. Zhimomi, learned Government Advocate for the respondent nos.1 to 4 and Mr. Pfosekho Pfotte, learned counsel for the respondent no.6. No one appears for the respondent no.5.

2. This is a case where the State respondents had acquired the land of the petitioner, but has wrongly paid the land compensation amount to the respondent no.6. Thus, the petitioner has filed this petition seeking payment of the compensation amount from the respondents.

3. The brief facts of the case is that while constructing the two lane highway connecting Kohima to Jessami, the petitioner's three buildings situated at 95.70 km to 117.20 km, under Package-V of the project were affected. On considering the damage, the Deputy Commissioner, Phek awarded compensation amount of Rs.11.48,605/- to the petitioner. However, the said amount was released by the Office of the Deputy Commissioner, Phek to the respondent no.6, without the consent and knowledge of the petitioner. The petitioner's counsel submits that as the petitioner's compensation amount has been wrongly given to the respondent no.6, the respondents should make good the loss suffered by him.

4. Mr. V. Zhimomi, learned Government Advocate for the

respondent nos.1 to 4 submits that the wrong payment made to the respondent no.6 was due to the Certificate dated 24.11.2020 issued by the respondent no.5, which was to the effect that the petitioner, Wepide and the respondent no.6, Wepute Kepfoh were the same person. Further, the certificate dated 24.11.2020 stated that the compensation amount was to be deposited against the name of respondent no.6.

5. Mr. V. Zhimomi, learned Government Advocate further submits that as a settlement was sought to be arrived at between the parties, the petitioner and the respondent no.6 were called for meetings before the Deputy Commissioner, Phek and that the respondent no.6 had repaid Rs.2,40,000/- out of Rs.11.48,605/- to the petitioner, thereby leaving an outstanding amount of Rs.9,08,605/- payable to the petitioner. Mr. V. Zhimomi further submits that in the meeting held on 04.12.2023 in the Office of the Deputy Commissioner, Phek, Nagaland, the respondent no.6 had agreed to forfeit his second hand Tata Sumo and two vast plots of land adjacent to the 2-lane road, besides forfeiting whatever amount he would receive as compensation for damage to his properties located at Losatephe village. This was agreed to by the respondent no.6 as he had spent the money mistakenly received by him and did not have the money to repay the balance amount to the petitioner. In this regard, the respondent no.5 had agreed to physically verify the plots of land which were to be handed over to the petitioner, if the petitioner agreed to the proposal put forth by the respondent no.6 in lieu of payment of the remaining 9,08,605/-.

6. Mr. V. Zhimomi further submits that an Undertaking dated 04.12.2023 had been made by the respondent no.6 in pursuant to the meeting held in the office of the Deputy Commissioner, Phek on 04.12.2023. Mr. V. Zhimomi has submitted letter no. DC/PK/JDL/WP(C)/2017/1748 dated 04.12.2023, meeting minutes dated 04.12.2023 issued by the Deputy Commissioner, Phek, Nagaland, Undertaking dated 04.12.2023 executed by the respondent no.6 and attendance sheet dated 04.12.2023 of the members who attended the meeting in the Deputy Commissioner's office, in support of his above submissions. He accordingly submits that if the petitioner agrees to the proposal made by the respondent no.6, the writ petition can be disposed of in line with the documents submitted by him.

7. Mr. Pfosekho Pfotte, learned counsel for the respondent no.6 submits that the respondent no.5 had informed the respondent no.6, that his name was in the list for payment of compensation. The respondent no.6 was asked to submit a photocopy of his bank passbook and Aadhar Card with one passport photo in the office of the Deputy Commissioner, Phek. The respondent no.6 accordingly submitted the same. On 04.12.2020 the respondent no.6 received a phone call from the respondent no.5, who stated that an amount of Rs.11,48,605/- had been deposited in his account. As such, the respondent no.6 withdrew the money and had spent it. However, after six months, in the month of May 2021, the respondent no.5 informed the respondent no.6 that the money which had been deposited into his account belonged to the petitioner and not to the respondent no.6. Thereafter the respondent no.6 was summoned by

the respondent no.3 and vide order dated 01.10.2021, the respondent no.4 directed him to refund the compensation amount to the petitioner. However, as the respondent no.6 had spent most of the money, the respondent could deposit an amount of Rs.2,00,000/- only before the Office of the SDO (Civil), Phek on 25.10.2021 and an amount of Rs.40,000/- on a subsequent date.

8. The learned counsel for the respondent no.6 submits that the respondent no.6 does not have the money to repay the balance amount of Rs.9,08,605/-. As such, the respondent no.6 has agreed to repay the balance amount to the petitioner, in the form of the respondent no.6's second hand Tata Sumo and two vast plots of land as recorded in the meeting minutes dated 04.12.2023 and the undertaking given by him on 04.12.2023.

9. Mr. Laknyei Phom, learned counsel for the petitioner submits as per instructions received by him, the petitioner does not agree to the payment of the balance amount of Rs.9,08,605/- in the form of a second hand Tata Sumo and 2 plots of land belonging to the respondent no.6.

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

11. The facts of the case, as submitted by the parties and as per the pleadings of the parties, show that the State respondents had wrongly paid to the respondent no.6 the compensation amount that was due to the petitioner. Though the State respondents had taken steps to recover the money from the respondent no.6 to pay the

petitioner, the respondent no.6 not having the money to pay the petitioner, he has agreed to forfeit his second hand Tata Sumo and two plots of land. The petitioner is however not agreeable to the same. As payment has been mistakenly made by the State respondents to the respondent no.6 due to the alleged Certificate dated 24.11.2020 issued by the Village Council Chairman of Losatgephe village, the liability for correcting the mistake/wrong done would lie on the State respondents.

12. In view of the facts and circumstances of this case, this Court is of the view that the petitioner cannot be allowed to be left high and dry, for a mistake committed by the State respondents, who should have been more careful in disbursing the compensation amount to the person who was to actually be given the compensation amount. Accordingly, this Court is of the view that equity demands that the petitioner should be repaid the balance amount of Rs.9,08,605/- by the State respondents and especially by the Office of the Deputy Commissioner, Phek, within a period of 3 (three) months from the date of receipt of a copy of this order. The State respondents and the Deputy Commissioner, Phek are accordingly directed to pay Rs.9,08,605 to the petitioner, within a period of 2 months from the date of receipt of a copy of this order. They are also given the liberty to recover the said amount from the respondent no.6, after making the payment to the petitioner.

13. The letter no. DC/PK/JDL/WP(C)/2017/1748 dated 04.11.2023, meeting minutes dated 04.12.2023 issued by the Deputy Commissioner, Phek, Nagaland, Undertaking dated

04.12.2023 executed by the respondent no.6 and attendance sheet dated 04.12.2023 and certificate dated 24.11.2020 issued by the Chairman, Village Council, Losatgephe village are made a part of the record and marked as Annexure-A, B, C, D & E respectively.

14. The writ petition is accordingly disposed of.

**Sd/-
JUDGE**

Comparing Assistant