

GAHC020007062021



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

Case No. : WP(C)/358/2021

ROKOVOLIE ZUMVU
S/O KELHOUVILIE ZUMVU, PERMANENT R/O NACHAMA VILLAGE,
NEAR GPS NACHAMA, DISTRICT - KOHIMA, NAGALAND

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE DIRECTOR GENERAL BORDER ROADS
ORGANIZATION SEEMA SADAK BHAWAN, RING ROAD NARAINA,
DELHI CANTT. NEW DELHI - 110010

2:THE EXECUTIVE ENGINEER
89 RCC (GREF), SECHU ZUBZA

3:THE STATE OF NAGALAND
THROUGH ITS CHIEF SECRETARY, GOVERNMENT OF NAGALAND
NAGALAND KOHIMA

4:THE DEPUTY COMMISSIONER
KOHIMA NAGALAND

Advocate for the Petitioner : NEITEO KOZA

Advocate for the Respondent : CGSC

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

Date : 05-12-2023

1. Heard Ms. Neiteo Koza, learned counsel for the petitioner. Also heard Mr. S.K. Medhi, learned C.G.C for respondent Nos. 1 and 2 and Mr. imti Imsong, learned Addl. Advocate General, Nagaland.

2. The case of the petitioner in brief is that he is the land owner of 2 plots of land located at Zediu and Tsievachie, Nachama Village. The respondent Nos. 1 and 2 constructed a road over the land of the petitioner, in pursuant to the project undertaken for construction of 2 lane road Botsa-Ziezou-New Ralan-Bokajan road under the project 89 RCC/15 BRTF/Project Sewak. However, the petitioner was not given any compensation, despite construction of the road and the damage caused to his property.

3. Ms. Neiteo Koza, learned counsel for the petitioner submits that the name of the petitioner has been inadvertently recorded in the cause list as "Rokovolie Zumvu". The petitioner's counsel submits that though the petitioner's name has been correctly recorded in the cause title and affidavit of the writ petition as "Ruokuovolie Zumvu", the petitioner's name has been incorrectly recorded in the cause list as "Rokovolie" Zumvu".

4. The learned counsel for the petitioner prays that a direction should be issued to the State respondents, to verify

the damage caused to the petitioner's land and to acquire the land of the petitioner, by paying compensation in terms of the acquisition law followed by the respondents, while acquiring the adjacent lands of other persons for the said project.

5. Mr. S.K. Medhi, learned C.G.C submits that the respondent Nos.1 and 2 had given compensation to land owners on the basis of the report made by the Deputy Commissioner, Kohima. As the name of the petitioner was not amongst the land holders whose lands were effected, in the report made by the Deputy Commissioner, Kohima, no compensation was given to the petitioner.

6. Mr. Imti Imsong, learned Addl. A.G. submits that the lands of the villagers whose lands were affected by the construction of the road were acquired, on the basis of the report made by the concerned village council. As the name of the petitioner had not been provided by the village council, the Deputy Commissioner, Kohima did not include the name of the petitioner among the list of land owners whose lands were effected by the construction of the 2 lane road. He also submits that the road had been constructed in the year 2010-2011 and it would be very difficult now, to ascertain as to whether the petitioner was a effected land owner. He also submits that as the issue here is with regard to whether the petitioner is an effected land owner, the same requires evidence to be adduced.

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

8. The affidavit-in-reply of the petitioner to the affidavit-in-opposition filed by the respondent Nos. 3 and 4, shows that certificates have been issued by the former village

council Chairman of Nachama village, Shri Kevimedo Zumvu dated 7.10.2023 and the present village council Chairman Shri Thepfulhousa Sanchu dated 16.3.2023, stating that the petitioner's land had been totally damaged due to the construction of road and that the petitioner has not been given compensation.

9. There is nothing to prove as to whether any damage has been caused to the petitioner's land, as no official records have been maintained by the State respondents. As there are disputed questions of facts, this Court is of the view that the Deputy Commissioner, Kohima should make a verification report, with regard to whether the petitioner is an affected owner of the land, due to the construction of the 2 lane road under project 89 RCC/15 BRTF/Project Sewak. The verification report by the Deputy Commissioner, Kohima should be made after calling for the participation of the respondent Nos. 1 & 2, the petitioner and the village council Chairman of the concerned village in the verification process. The said verification report should be made within a period of 3 months, from the date of receipt of a copy of this order.

10. If the Deputy Commissioner, Kohima comes to a finding that the petitioner is an affected land owner due to the construction of the road on the land of the petitioner, the Deputy Commissioner, Kohima shall make an assessment of the compensation to be paid to the petitioner, in terms of the land acquisition law that has been applied for acquiring adjacent lands for the said project, within a further period of 2 months. Thereafter, the payment to be made, if any, should be

deposited by the respondent Nos. 1 and 2 before the Deputy Commissioner, Kohima, who shall disburse the same to the petitioner. It is needless to add that if the respondents are aggrieved by the verification report made by the Deputy Commissioner, Kohima, they are at liberty to challenge the same before the appropriate forum.

11. With regard to the submission made by the petitioner's counsel regarding the wrong recording of the petitioner's name in the cause list, I also find the same to be true, though the petitioner's name has also been recorded wrongly in page No.1 & 4 of the writ petition.

The writ petition is accordingly disposed of.

**Sd/-
JUDGE**

Comparing Assistant