

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP (C) No. 607 of 2019

1. Shri AS Barnabas, aged about 68 years S/O (L) Ngasaiphung of Hundung Village P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
2. Shri K.W. Ngaranmi, aged about 57 years S/O (L) KW. Ramsing of Nungshang CT Village P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
3. Shri RSM. Jonah, aged about 67 years S/O (L) Changmatai of Hungpung Village P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
4. Shri ZAS. Kayangnam, aged about 68 years S/O (L) ZAS. Vashi of Hungpung Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
5. Shri SK. Premson, aged about 45 years S/O (L) SK. Vashum of Hungpung Village P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
6. Shri KSV. David, aged about 62 years, S/O (L) Yarteo of Hungpung Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
7. Shri CS. Xavier, aged about 50 years S/O (L) Thadus of Hungpung Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
8. Shri KSV. Tharawung, aged about 56 years S/O Hangphui of Hungpung Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
9. Shri YL. Hungmayung, aged about 41 years S/O (L) Areng of Hungpung Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
10. MKS. Hungam, aged about 52 years S/O (L) Naomazum of Hungpung Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.
11. Zanyo Varam, aged about 45 years S/O Changmatai of Lungshang Village, P.O. & P.S. Ukhrul, Ukhrul District Manipur-795142.

..... ***Petitioners***

Vs.

1. The Union of India, represented by the Secretary (Road Transport and Highways), Ministry of Road Transport and Highways, Government of India, Transport Bhavan, 1, Parliament street, New Delhi-110001.
2. The Director General, Border Roads, Seema Sadak Bhavan, Ring Road, Delhi Cantt, New Delhi-110010.
3. The Commander, 25 BRTF, C/o 99 APO, Lamphel, Imphal-795004.
4. The Officer Commanding, 84 RCC (GREF), C/o 99 APO, Ukhrul-795142.
5. The State of Manipur represented by the Commissioner/Secretary (Revenue), Government of Manipur, Secretariat Block, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
6. The Deputy Commissioner, Ukhrul, P.O. & P.S. Ukhrul, Ukhrul District, Manipur-795142.
7. The Executive Director NHIDCL, Regional Office Manipur, Officers' Club, Lamphelpat P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.
8. The General Manager (Project) NHIDCL, PMU Ukhrul, Khampason, Near Session Court Ukhrul, P.O. & P.S. Ukhrul, Manipur-795142.

..... Respondents

**B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

For the Petitioners	: Mr. RS Reisang, Sr. Advocate assisted by Mr. Wungpam Yangya, Advocate.
For the respondents	: Mr. S. Samarjeet, Sr. Panel Counsel and Mr. Niranjana Sanasam, GA.
Date of Hearing	: 15.01.2024.
Date of Judgment & Order	: 14.03.2024.

**JUDGMENT & ORDER
(CAV)**

[1] Heard Mr. RS Reisang, learned senior counsel assisted by Mr. Wungpam Yangya, learned counsel appearing for the petitioners, Mr. S. Samarjeet, learned senior panel counsel appearing for the respondents No. 1-4, 7 & 8 and Mr. Niranjana Sanasam, learned Government Advocate appearing for the respondents No. 5 & 6.

[2] The present writ petition had been filed with a prayer for directing the respondents No. 1 to 4 to deposit the amount of compensation awarded by the Deputy Commissioner, Ukhrul, in his award of compensation dated 15.12.2018 in Land Acquisition Case No. 5 of 2015 and also praying for directing the respondents for payment of interest to the affected land owners as provided under section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

[3] The brief facts of the present case are that by a letter dated 07.02.2007, EE (Civil) Officer Commanding 84 Road Construction Coy (GREF), approached the Deputy Commissioner, Ukhrul to initiate land acquisition proceedings for improvement of NH-150 (now 202) from Yaingangpokpi to Ukhrul to Double Lane having wide of 24 meter in open areas and 20 meter in build up areas.

[4] As per the request made by the requiring authority, the Deputy Commissioner, Ukhrul issued a notification dated 01.10.2009 for conducting verification/survey of land/areas to be affected in developing double lane specification of the existing status of NH-150 from Hundung Junction to Yaingangpokpi by a joint team comprising of Revenue Department, representative of BRTF/84 RCC (GREF), EE (PWD) Ukhrul, DO (H & SC) Ukhrul and DFO (Forest) Ukhrul w.e.f., 05.10.2009 till completion of the verification/survey process. The joint survey team conducted the survey and measurement of the road stretches and after completion of the said survey and measurement, the DC approached the Commissioner (Revenue), Government of Manipur, for issuance of preliminary notification under section 4 of the Land Acquisition Act, 1894. However, the Commissioner (Revenue) instructed the DC that a tentative amount of compensation should be deposited by the requiring department so that land acquisition proceeding could be initiated.

[5] As per the instruction of the Commissioner (Revenue), Government of Manipur, the DC, Ukhrul make tentative assessment of compensation in respect of

lands and standing properties likely to be affected in developing the NH-150 from Hundung to Finch Corner into double lane specification altogether amounting to Rs. 3,72,34,946 /- (Rupees three crores seventy two lakhs thirty four thousand nine hundred and forty six) and submitted the said estimated amount of compensation to the Officer Commanding, 84 RCC (GREF), under a letter dated 08.12.2009. In the said letter, the DC, Ukhrul made it clear that the assessment of compensation for other categories of land except residential, paddy field and farm have been excluded and that the final award of compensation can be ascertained after completing all the mandatory stages of land acquisition proceeding under provision of Land Acquisition Act.

[6] Pursuant to the submission of the said estimated amount of compensation by the DC, Ukhrul, the requiring department sanctioned and deposited the estimated amount of compensation to the DC, Ukhrul, vide letter dated 15.10.2012 of the EE (Civ) OIC CA.

After depositing the said estimated amount of compensation by the requiring department, land acquisition proceeding was initiated by the Commissioner (Revenue), Government of Manipur by issuing a notification dated 02.11.2012 under section 4 (1) of the Land Acquisition Act, 1894 notifying that an area of 77.2453 acres of land described in the schedule, annexed to the said notification, are likely to be needed for development/improvement of NH-150 road stretch from Hundung Junction, Ukhrul to Finch Corner in Ukhrul District. However, before completion of the said land acquisition proceeding, a new Act, i.e., the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("Act of 2013" for short) came into force, repealing the earlier Land Acquisition Act, 1894 and as such, the Government of Manipur decided to initiate the Land Acquisition proceeding afresh under the said Act of 2013. Accordingly, the Secretary (Revenue), Government of Manipur issued a notification dated 22.06.2015 under section 11 (1) of the Act of 2013 notifying that the land

measuring 78.6938 acres of land described in the schedule, annexed to the said notification, are likely to be needed for development of NH-150 (now NH-202) from Hundung to Finch Corner in Ukhurul District. In the said notification, the number of land owners who are going to be affected by the said land acquisition are shown as 266.

[7] After completing all the procedures and formalities prescribed under the Act of 2013 and the Rules made thereunder, the DC, Ukhurul passed an award of compensation dated 15.12.2018 in Land Acquisition Case No. 5 of 2015 amounting to Rs. 26,79,37,214/- (Rupees twenty six crores seventy nine lakhs thirty seven thousand two hundred fourteen) for payment to the affected land owners. In the said award, the DC, Ukhurul classified the acquired land into 4 (four) categories and determined the market value of the land as under:-

"Classification:

- " (1) **Road side/DHQ Areas:**
(a) The areas of land which is used as commercial site situated at main market is classified as Road side/DHQ Areas. As per MGVT the market value of this land is fixed at Rs. 50/- per sqft.
- (2) **Residential/Inhabited Areas:**
The areas of land which is used as residential areas which market value is fixed at Rs. 30/- per sqft.
- (3) **Paddy fields:** *paddy field is permanently constructed field which can be cultivated in every season with proper supply of water. Some of the paddy fields are simultaneously used as pisciculture farm. Generally, market value of permanent paddy field is high in this area. The market value of paddy field is fixed at Rs. 15/- per sqft.*
- (4) **Uninhabited Areas:** *it is the land where quarrying stones or sands, Farm land, Ingkhol and Uyok which are not inhabited for which market value is fixed at Rs. 10/- per sqft."*

[8] In the said award, the DC, Ukhurul requested the requiring department, i.e., 25 BRTF (GREF) and 84 RCC (GREF) C/o 99 APO to deposit the awarded amount of compensation less the amount already deposited by them earlier along with an amount of Rs. 13,39,686/- to meet the charges of executing land acquisition proceedings. The Addl. Deputy Commissioner, Ukhurul also wrote a letter dated

15.12.2018 to the Officer Commanding, 84 RCC (GREF), furnishing a copy of the said award of compensation dated 15.12.2018 and requesting to deposit the awarded compensation amount within 3 (three) months' time from the date of notification of the award.

[9] After passing of the award of compensation, the requiring department wrote several letters to the DC, Ukhurul seeking clarification with regard to the area of the acquired land and the amount of compensation awarded by the DC, Ukhurul. In response to the said letters, the DC, Ukhurul also wrote several letters furnishing explanation/clarification with regard to the queries raised by the requiring department and also requesting repeatedly to deposit the compensation amount so as to enable payment of the awarded compensation to the concerned affected persons and also pointing out that delay in payment may attract additional compensation in the form of interest as provided under section 80 of the Act of 2013. However, requiring department refused to deposit the awarded compensation amount despite the repeated request made by the DC, Ukhurul. Having been aggrieved, the petitioners, who are some of the affected land owners, approached this Court by filing the present writ petition for redressing their grievances.

[10] The reasons given by the respondents No. 1-4 for refusing to deposit the amount of compensation awarded by the Collector are as under:-

- (i) By an award of compensation dated 30.03.1993 passed earlier by the DC, Ukhurul, compensation had already been given to villagers of Hundung for a total area of 151.85 acres of land for construction of single lane road having width of 9 meters from Hundung Junction (Km 544.240) to Nungshangkhong Bridge (Km 527.995). For development of the said road stretch to double lane having width of 24 meters in open areas and 20 meters in built up areas from Hundung Junction (Km 544.240) to Finch Corner (Km. 522.860) in

Ukhrul District, the present land acquisition proceedings have been initiated for acquiring the land measuring 78.6938 acres.

The length of the road stretch from Hundung Junction to Finch Corner is 21.38 kms only. According to the calculation of the respondents No. 1-4, the total area required for construction of double lane having width of 24 meters in open areas and 20 meters in built up areas for the said road stretch of 21.38 kms will come to only 125.01 acre. The earlier acquired land of 151.85 plus the present acquired land of 79.44 acre for the same stretch of road comes to a total area of 231.29 acre. According to the respondents No. 1-4, the said total area of 231.29 acre is far in excess of the required area of 125.01 acre for construction of the said road stretch to double lane and as such, there is an overlapping of the area of the land claimed for payment of compensation. Accordingly, the respondents are not agreeable to pay double compensation for the same piece of land on the same road stretch, since it will result in lost to Government Exchequer.

(ii) The Government should not be made to pay compensation for the same land more than once nor acquired an area more than that is needed for the said road construction and that the total area of land claimed for compensation cannot be more than the area that is required for the said road construction, unless, there is an overlapping of the areas claimed for compensation. As compensations have already been given on the basis of the award dated 30.03.1993 passed earlier by the DC, Ukhrul for an area of 151.85 acres, the said land having an area of 151.85 acres shall be deemed to have already been acquired and as the area required for development of the aforesaid road stretch to double lane works out to only 125.01 acre, no additional land is required and as such, the amount of Rs. 388.69 lakhs deposited earlier by the respondents No. 1-4 in connection with the present land acquisition proceedings should be returned back.

[11] Refuting the reasons given by the respondents No. 1-4, it has been submitted by Mr. RS Reisang, learned senior counsel appearing for the petitioners that in connection with the land acquisition proceedings initiated in 1980s for construction of Mini Cement Factory, Imphal Ukhrul Road and Nungshangkhong Mini Hidro Electricity Power Project within the area of Hundung Village in Ukhrul District, the Hundung's victims of development formed by villagers of Hundung filed a writ petition being Civil Rule No. 1331/90/1/91 before the Guwahati High Court seeking for issuing a direction to the respondents to grant compensation in respect of lands which were utilized in the construction of the Imphal-Ukhrul Road lying within the land area of Hundung Village, even though such land was not acquired. The said writ petition was allowed by the High Court by a judgment dated 02.02.1993 for payment of land compensation by directing to pay land compensation in respect of the lands which had not been acquired within the period of 3 (three) months from the date of the said order.

[12] In order to comply with the direction given by the Guwahati High Court, the DC, Ukhrul passed an award of compensation dated 30.03.1993 for payment of compensation in respect of land affected by construction of road stretches from Hundung Junction (Km 544.240) to Nungshangkhong Bridge (Km 527.995) for an area of 151.85 acres of land in the name of 76 owners.

It has been submitted that the aforesaid award of compensation passed by the DC, Ukhrul was without verifying/following due procedure of survey and measurement and without following the land acquisition proceedings provided under the Land Acquisition Act, 1894 and just to avoid contempt proceedings pending in the High Court.

[13] The learned senior counsel also submitted that the distance between Hundung Junction (Km 544.240) and Nungshangkhong Bridge (Km 527.995) is only about 17 kms in length and the width of the single lane constructed on the said stretch of road was 9 meters only and as such, the total area for construction of

the said single lane comes to about 37.78 acres only, hence, the area of 151.85 acres of land claimed for payment of compensation as against the actual area of 37.78 acres of land required for construction of the said stretch of road was absolutely incorrect. It has been further submitted that the said compensation award dated 30.03.1993 was passed by the DC, Ukhruul on the basis of the claims made by the petitioners in CR No. 1331/90/1/91 without carrying out any verification or survey/measurement and without following due procedure prescribed under the land acquisition Act.

[14] It has been submitted on behalf of the petitioners that the present land acquisition proceedings have been carried out on the request made by the requiring authority and after strictly following all the procedures prescribed under the Act of 2013 and passed the compensation award. At the time of survey and measurement of the land and other standing properties likely to be affected during the work of development of the said road stretch into double lane, not only the concerned authorities of the State Government but the representative of the respondents No. 1-4 were also present. In fact, since the issuance of the notification dated 22.06.2015 under section 11 (1) of the Act of 2013, the respondents No. 1-4 and their representative knew all along that the area of land to be acquired was 78.6938 acres and they never raised any objection throughout the land acquisition proceedings and that the respondents are raising their objection only after the passing of the award and that too at a very belated stage. The learned senior counsel vehemently submitted that as the area of land to be acquired was notified after carrying out a detail and joint survey and measurement, wherein the representative of the respondent No. 1-4 was also present, the respondents did not and could not raise any objection to the area of the land to be acquired during the land acquisition proceedings.

[15] The learned senior counsel submitted that in the earlier land acquisition proceedings, the length for construction of the single lane road was only about 17

kms between Hundung Junction and Nungshangkong Bridge whereas, in the present land acquisition proceedings the length of the road stretch for development of double lane from Hundung Junction to Finch Corner is about 21.38 km and as such, the claim of the respondents No. 1-4 that there is overlapping of the area is absurd and without substance . It has also been submitted that in the earlier land acquisition proceedings the claimants for land compensation were only about 76 in number whereas, in the present land acquisition proceedings there are more than 266 land owners who are entitled to the compensation amount. The learned senior counsel accordingly submitted that these large number of land owners cannot be deprived of their entitled compensation only on the basis of absurd and unreasonable objection raised by the respondents No. 1-4.

[16] The learned senior counsel submitted that if the respondents No. 1-4 considered the area earlier acquired for construction of the initial single lane road in 1980 was 151.85 acres and if such area was more than sufficient required for widening into double lane, then why have the respondents No. 1-4 approached the DC, Ukhrul and requested for acquisition of additional land for development and widening of the said single lane into double lane and requested for initiating land acquisition proceedings. The learned senior counsel strenuously submitted that such action of the respondents No. 1-4 clearly shows that their claim that there is overlapping of the area of the land claimed for payment of compensation is absurd and without any substance.

[17] The learned senior counsel lastly submitted that the requiring authority had taken possession of the affected land belonging to the petitioners in 2012 and the development of the said road stretch into double lane had already been completed, however, the requiring authority has not deposited the compensation amount awarded by the DC, Ukhrul till today. The learned senior counsel submitted that as the affected land belonging to the petitioners had already been taken possession

by the requiring authority, the petitioners are entitled to get interests as provided under section 80 of the Act of 2013.

[18] I have heard the submission advanced by the learned counsel appearing for the parties at length and also carefully examined all the materials available on record. In the present case, when the Secretary (Revenue), Government of Manipur, issued the notification dated 22.06.2015 under section 11 (1) of the Act of 2013, the area of land measuring 78.6938 acres required for development of NH-150 (Now NH-202) from Hundung to Finch Corner in Ukhrul District, which was proposed to be acquired, was clearly mentioned. The said area of land proposed to be acquired was notified after holding a Joint Survey and Measurement carried out by a team of officer including the representatives of the respondents No. 1-4. Even though, the respondents No. 1-4 have clear knowledge about the area of land to be acquired was 78.6938 acres, they never raised any objection at the time of carrying out the Joint Survey or during the whole process of the land acquisition proceedings. In fact, the respondents No. 1-4 even deposited the tentative compensation amount of Rs. 38869448/- for payment of compensation for the acquisition of the said area of 78.6938 acres of land without any objection or protest. Only after passing of the award of compensation dated 15.12.2018 by the DC, Ukhrul, the respondents No. 1-4 refused to deposit the said compensation amount for the reasons given hereinabove.

[19] Both the petitioners and the respondents No. 1-4 agreed that the total area required for construction of double lane having width of 24 meters in open areas and 20 meters in built up areas for the road stretch of 21.38 kms from Hundung Junction to Finch Corner will come to only about 125.01 acres. If that is so, there is no escaping from the fact that the area of 151.85 acres claimed by the Hundung victims for construction of single lane having width of only 9 meters and for the road stretch of about 17 kms only cannot be taken as true or correct. In view of the above, this Court finds force in the submission made by the learned senior

counsel appearing for the petitioners that some mistake have been committed by the authorities at the time of passing the award dated 30.03.1993 in the earlier land acquisition proceedings with regard to the area of land required to be acquired. Hence, this Court is of the considered view that on account of the mistakes committed by the authorities in the earlier land acquisition proceedings, the petitioners cannot be made to suffer by depriving them of their right to get fair compensation for the lands and the other standing properties belonging to them, which have been acquired by the requiring authorities by following the due process of law as provided under the Act of 2013.

[20] It is a well settled principle of law and trite to state that the land compensation Act and Rules made therein are a complete code in itself. Under section 64 of the Act of 2013 it is, inter-alia, provided that any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of rehabilitation and resettlement or the apportionment of the compensation among the persons interested and that upon receipt of such written application/ objection, the Collector shall make a reference to the appropriate authority within 30 (thirty) days.

[21] In the present case, the respondents No. 1-4 did not submit any written application to the Collector raising their objection to the award passed by the DC, Ukrul and requesting for referring the matter to the authority for deciding the same as provided under section 64 of the Act of 2013 and as such, this Court is not inclined to entertained the objections raised by the respondents No. 1-4 in the present writ petition. This Court is also of the considered view that without raising any objection to the award of compensation passed by the DC, Ukhrul as provided under section 64 of the Act of 2013, the refusal of the respondents No. 1-4 to

deposit the balance compensation amount due payable to the petitioners despite, repeated request made in this regard, are very unreasonable, arbitrary and illegal.

In the case of **"Tukaram Kana Joshi & Ors. vs. Maharashtra Industrial Development Corporation & Ors."** reported in (2013) 1 SCC 353, it has been held by Hon'ble Apex Court as under:-

"Para 9. The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment, etc. Now however, human rights are gaining an even greater multifaceted dimension. The right to property is considered very much to be a part of such new dimension.

"Para 17. Depriving the appellants of their immovable properties was a clear violation of Article 21 of the Constitution. In a welfare State, statutory authorities are bound, not only to pay adequate compensation, but there is also a legal obligation upon them to rehabilitate such persons. The non-fulfilment of their obligations would tantamount to forcing the said uprooted persons to become vagabonds or to indulge in anti-national activities as such sentiments would be born in them on account of such ill-treatment. Therefore, it is not permissible for any welfare State to uproot a person and deprive him of his fundamental/constitutional/human rights, under the garb of industrial development."

[22] As the lands and other standing properties of the petitioners have been taken over by the acquiring authorities before completion of the acquisition proceedings and before payment of or depositing the amount of compensation and as such factum has not been denied by any of the respondents, this Court is of the considered view that the petitioners are also entitled to get interests as provided under section 80 of the Act of 2013.

[23] Taking into consideration the facts and circumstances of the present case and keeping in view the well settled principle of law laid down by the Hon'ble Apex Court, this Court is of the considered view that the petitioners are entitled to the relief sought for in the present writ petition. Accordingly, the present writ petition is disposed of with the following directions:-

- (i) The DC, Ukhurul is directed to calculate the interests due payable to the petitioners strictly in terms of the provisions under section 80 of the Act of 2013 and the Rules made thereunder and to submit the same to the requiring department for payment of such interests along with the amount of compensation. Such process should be completed within a period of 3 (three) months from today;
- (ii) the respondents are directed to deposit the amount of compensation as awarded by the DC, Ukhurul in his award of compensation dated 15.12.2018, less the amount already deposited, along with interest calculated by the DC, Ukhurul as directed hereinabove, within a period of 6 (six) months from today.

With the aforesaid directions, the present writ petition is disposed of.

Parties are to bear their own costs.

JUDGE

Sapana

FR/NFR