

GAHC040004962020



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

Case No. : WP(C)/185/2020

MUDANG SUMPI
W/O SHRI MUDANG BATT, PERMANENT RESIDENT OF MUDANG TAGE
VILLAGE, PO/PS ZIRO, DIST. LOWER SUBANSIRI, AP.

VERSUS

1.THE STATE OF AP REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF
AP, ITANAGAR.

2:THE SECRETARY LAND MANAGEMENT DEPTT. GOVT. OF AP ITANAGAR.

3:THE DEPUTY COMMISSIONER LOWER SUBANSIRI DIST. ZIRO AP.

4:THE CHIEF ENGINEER HIGHWAY WESTERN ZONE PWD ITANAGAR AP.

5:THE UNION OF INDIA REPRESENTED BY THE SECRETARY MINISTRY OF
ROAD TRANSPORT AND HIGHWAY GOVT. INDIA TRANSPORT BHAWAN
NO. 1 PARLIAMENT STREET NEW DELHI-11001.

Advocate for the Petitioner : Mudang Batt

Advocate for the Respondent : Dugmar Kamduk

**BEFORE
HONBLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 04-01-2024

Heard Mr. M. Batt, the learned counsel for the petitioner and Mr. S. Tapin, the learned Senior Government for the State respondents.

2. This writ petition is filed by the petitioner putting into challenge the Notice dated 26.06.2020, whereby, Deputy Commissioner, Lower Subansiri, Ziro has by the said Notice indicated the area of land in chainage, which will be required for construction of Double Trans-Arunachal Highway from 0.00 Km to 77.950 Km (Potin-Pamluk). The said area of land as indicated in the Notice dated 26.06.2020, was required to be handed over to the Executive Engineer (PWD), Doimukh Highway Division, Yupia on the dates mentioned in the said Notice. Apprehending acquisition of the land belonging to the petitioner or demolition of the house of the petitioner standing on the said land, the present writ petition was filed seeking a direction to set aside the impugned Notice No. DCZ/TAH/2020, dated 26.06.2020 (Annexure-9) or in the alternative issue a direction to the respondents to pay a compensation of Rs.11,55,152/-(Rupees Eleven Lakhs Fifty Five Thousand One

Hundred Fifty Two)only to the petitioner for the land and properties sought to be acquired as per compensation estimate prepared by the respondents.

3. This Court issued notice and pursuant thereto, the respondents filed their counter-affidavits.

4. Mr. S. Tapin, the learned Senior Government Advocate referring to the affidavit-in-opposition filed on behalf of the Deputy Commissioner, submits that the apprehension expressed by the petitioner with regard to acquisition of the land and demolition of the building over the said land is misplaced. The construction of the road has already been completed and there is no requirement of acquisition of any land belonging to the petitioner or any requirement to demolish the building of the petitioner for construction of the highway. The learned Senior Government Advocate has referred to the photographs showing the completed highway passing by in front of the building belong to the petitioner.

5. The learned counsel for the petitioner also agrees that highway has been completed and there appears to be no further requirement for acquisition of the land for construction of the highway as the same has already been completed. He however, submits that as per the proposal pertaining to the construction of

highway, there is also an RCC drain which was required to be constructed and which is presently under construction. He however, submits that he has no specific instructions as to the present status of completion of construction of RCC drain. It is submitted that a portion of land belong to the petitioner as been acquired for the purpose of construction of the RCC drain. However, the petitioner as on date does not wish to press for compensation on the said portion of land acquired for construction of the RCC drain in front of her house. The learned counsel for the petitioner fairly submits that since this will be in use for public, the petitioner does to wish to make any claim for compensation. The petitioner's apprehension was demolition of her building for the purpose of construction of highway. If the respondents do not require any further land for acquisition particularly land on which the building is situated or eviction of the petitioner therefrom, the petitioner will have no further grievance subject to completion of the RCC drain presently stated to be under construction.

6. Mr. S. Tapin, the learned Senior Government Advocate submits referring to the affidavit filed by the petitioner, the specific averments in paragraph-7 and paragraph-9 of the affidavit that the highway has already been completed and there is no requirement for acquisition of any further land belonging to the petitioner for construction of highway. As such, there is no requirement of the land

or the building belonging to the petitioner for the purpose of construction of highway. He submits that there is however, a proposal for construction of RCC drain by the side of the highway in front of the residence of the petitioner.

7. Having heard the learned counsel for the parties and upon careful perusal of the pleading on record, it is seen that apprehension expressed by the petitioner is with regard to the acquisition of land or demolition of building for the purposes of construction of highway is no longer found to be an issue in view of the fact that the said highway, from "Potin to Pamruk" has already been constructed and there is no dispute between the parties to the said fact. The only grievance of the learned counsel for the petitioner at this stage is that the RCC drain which was stated to be part of the project and which was required to be constructed has not been completed and if that drain is completed as per the claim, the petitioner will have no further grievance.

8. The learned counsel for the petitioner submits that till now 2.7 mtrs of the land belonging to the petitioner has been acquired for the purpose of construction of RCC drain. However, the petitioner has not objection and she is not claiming any compensation for the said acquisition as the construction of RCC drain is in public interest. The learned counsel for the petitioner however, submits that

directions be issued by the Court for completion of drain as per plan within a stipulated period of time.

9. In view of the submissions as recorded above and in view of the averments as seen from the pleadings, this Court is of the considered view that the writ petition at this stage can be closed as there is no threat or apprehension faced by the petitioner in respect of acquisition of any further land belong to the petitioner or damage to the building of the petitioner in question. Insofar as the construction of the RCC drain is concerned, the respondents more particularly, Chief Engineer, Highway, Western Zone, PWD, Itanagar, Arunachal Pradesh will ensure that the said RCC drain is completed as per the proposal as expeditiously as possible within a period of 90 days from today.

10. With the above observation, the writ petition stands disposed of.

11. Interim order, if any, stands vacated and pending interlocutory application are also disposed of.

12. A certified copy of this order be marked to the office of the Senior Government Advocate for onward communication. The petitioner is also permitted to present a certified copy of this order

before the competent authorities.

JUDGE

Comparing Assistant