

GAHC040007252023



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

Case No. : WP(C)/256/2023

Yeshi Phuntsok alias Phuntso
S/o Lobsang Phuntsok,
Permanent Resident of Kharsa Village, Jang Circle, PO Tawang, PS Jang, District,
Arunachal Pradesh.
Ph. 08473869788

VERSUS

The State of AP and 6 Ors Represented by the Commissioner/Secretary, Land
Management, Govt. of Arunachal Pradesh, Itanagar 791111

2:The Deputy Commissioner, Tawang District Tawang PO/PS Tawang Arunachal
Pradesh.

3:The Additional Deputy Commissioner, Jang PO Tawang PS Jang District Tawang
Arunachal Pradesh.

4:THE UNION OF INDIA, Represented by the Secretary Ministry of Defence Sena
Bhavan Govt. of India New Delhi 110011

5:The Chief Engineer (VARTAK) C/o 99 APO Tezpur District Sonitpur Assam.

6:The Commander, 42 BRTF C/o 99 APO Sapper Camp Dirang PO Dirang District
West Kameng Arunachal Pradesh

7:the Officer Commanding, 90 RCC (GREF) Jang PO Tawang PS Jang District
Tawang Arunachal Pradesh Advocate for the Petitioner : T T T

Advocate for the Petitioner : T T Tara

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 08-05-2024

Heard Mr. B. Picha, learned counsel for the petitioner. Also heard Mr. D. Kamduk, learned Standing Counsel for the Land Management Department/respondent No.1 as well as Ms P. Sangeeta, learned Government Advocate for respondents No.2 and 3 and Mr. M. Kato, learned DSGI for the respondents No.4 to 7.

2. Petitioner has filed this petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus or any other appropriate writ, or direction to the respondents, more particularly to the respondents No.4 to 7 to immediately take a decision to acquire the land of the petitioner, by paying compensation as per re-assessment valuation or issue No Objection Certificate to enable the petitioner to undertake developmental activities over his own land.

3. It is submitted on behalf of the petitioner that a notification was issued on 27.09.2012, for acquisition of the petitioner's land measuring 1404 (One Thousand Four Hundred Four) square meters

located at Kharsa village of Jang Circle, Tawang, Arunachal Pradesh by the respondent No.1, for construction and widening of Balipara-Charduar-Tawang road (herein after referred as BCT).

4. The aforementioned land of the petitioner was assessed for acquisition by the respondent. The petitioner did not agree with the valuation of the first assessment by the respondents. Thereafter, the order dated 12.06.2018, was issued for re-assessment of compensation of standing properties over the land of the petitioner for acquisition to construct the proposed BTC road. Annexure-2 (series) is the order dated 12.06.2018, enclosed in the petition. The valuation of the land was re-assessed in 4(four) categories viz. the land, standing properties, forest products and horticultural crops respectively. The valuation was estimated to be Rs. 84,39,559/- (Rupees Eighty-Four Lakhs Thirty Nine Thousand Five hundred Fifty Nine) only. The re-assessed valuation was forwarded to the OC, 90 Road Construction Coy(RCC), C/o of 99 APO, the requiring authority, by the Deputy Commissioner, Tawang District.

5. The re-assessment of compensation in respect of the petitioner forwarded from the Additional Deputy Commissioner to the Deputy Commissioner, Tawang is marked as Annexure-3 of the petition. After 2018, when no steps were taken for acquisition of the land, the petitioner submitted an application dated 30.12.2019, to the

Additional Deputy Commissioner, Jang Sub-Division, Tawang, apprising him about an earlier letter dated 03.12.2019, seeking issuance of No Objection Certificate (NOC), as his land has not been acquired. Since the initial assessment in the year 2018, the petitioner is unable to renovate his house or improve his property. Again on 07.07.2020, the petitioner submitted another letter to the Deputy Commissioner, Tawang, apprising the Deputy Commissioner about his grievance relating to re-assessment and valuation of his land and further requested for No Objection Certificate to improve his property. The letter dated 07.07.2020, is marked as Annexure-5 of the petition. The Additional Deputy Commissioner, Jang Sub-Division also forwarded the representation of the petitioner to the OC of 90 RCC (GREF) Jang, Tawang.

6. Again on 25.10.2022, another representation was submitted to the Additional Deputy Commissioner, Jang, stating that the petitioner is aggrieved as no steps have been taken by the respondent either to acquire his land and pay the compensation or to issue a No Objection Certificate(NOC) so that the petitioner can renovate his house and improve his land and property. Then again, on 25.10.2022, the Additional Deputy Commissioner, Jang forwarded the same representation of the petitioner to the Officer Commanding, 90 RCC(GREF), Jang.

7. Mr. M. Kato, the learned DSGI has fairly submitted that they have not taken possession over the land as the District Magistrate has not acquired the land.

8. Ms P. Sangeeta, learned Government Advocate, on the other hand, submits that they have assessed, re-assessed and verified the valuation and forwarded to the Union of India for payment of the compensation so that the parties may proceed for acquisition of the land for construction of the BCT Road.

9. I have considered the submissions at the bar with circumspection. It is true that land has been assessed and re-assessed. Thereafter, no steps have been taken for acquisition of the land or for payment of compensation to the petitioner. Considering all aspects, a direction is given to the respondents No.4 to 7 to take decision, if the land is further required for construction of the BCT road and, if not, to send a communication to the District Administration, to enable the District Administration to issue No Objection Certificate (NOC) in favour of the petitioner, so that the petitioner can renovate his residence or improve his land. This decision is to be taken by the respondents No.4 to 7 within 2(two) months.

10. With the above observation, this writ petition is disposed of.

No order as to costs.

JUDGE

Comparing Assistant