

GAHC010027372022



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

Case No. : WP(C)/1028/2022

SAIRA BEGUM @ SAIRA BEGUM LASKAR
W/O- LATE SOFTER ALI LASKAR, D/O- LATE SURUJ ALI LASKAR, R/O-
CHIPORSAGON, PART-1, P.O. CHIPORSAGON, DIST. CACHAR, ASSAM, PIN-
788801.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF LAND REVENUE, DISPUR, GUWAHATI-6.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF P.W.D.
DISPUR
GUWAHATI-6.

3:THE CHIEF ENGINEER
P.W.D. (ROAD)
CHANDMARI
GUWAHATI-3.

4:THE EXECUTIVE ENGINEER
PWD (ROADS)
BORKHELA AND KATIGORAH TERITERIAL ROAD DIVISION
KATIGORAH
CACHAR
DIST. CACHAR
ASSAM
PIN- 788710.

5:THE DEPUTY COMMISSIONER
SILCHAR
CACHAR

DIST.- CACHAR
ASSAM
PIN- 788006.

6:THE SUPERINTENDENT OF POLICE
SILCHAR
CACHAR
DIST. CACHAR
ASSAM
PIN- 788001.

7:THE CIRCLE OFFICER
KATIGORAH
CACHAR
DIST.- CACHAR
ASSAM
PIN- 788110.

8:THE CONTRACTOR
ABDUL MUNIM BARBHUIYA
S/O- ABDUL KAIYUM BARBHUIYA
R/O- VILL.- BANGARPAR NEAR SBI IN THE DISTRICT OF CACHAR
ASSAM
PIN- 788817

Advocate for the Petitioner : MR H I CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 06.05.2024

Heard Mr. G. Uddin, learned counsel for the petitioner and Ms. G. Hazarika, learned Standing Counsel, Revenue Department. Also heard Mr. M. H. Majarbarbhuiyan, learned counsel for the respondent No. 8 and Ms. S. Baruah, learned GA, Assam as well as Mr. B. Gogoi, learned Standing Counsel, PWD.

2. By filing the instant writ petition, the petitioner is seeking a direction from

the respondents to consider the case of the petitioner for payment of compensation in respect of 5 Bighas of patta land purchased and inherited by the petitioner from her father, amounting to Rs. 80 Lakhs, which has been acquired by the respondents for construction of road under PMGSY.

3. It is the specific grievance of the petitioner that the aforesaid land of the petitioner was acquired for construction of the subject road under PMGSY without payment of compensation till date.

4. Heard the learned counsel for the parties.

5. It appears from the affidavit-in-opposition filed by the respondent No. 5, i.e., Deputy Commissioner, Cachar, Silchar that during the field enquiry conducted by the LR staff, it is reported that the PMGSY Road in question actually covered approximate an area of land measuring 00 B-00K-08Ch (360 Sq. Feet) from Dag No. 436. It further appears that spot verification in connection in consultation with available land record/ document evidence and local witness has been conducted and respective report against the suit dag as mentioned in the writ petition by the petitioner vide No. 429, 436, 270 covered under 2nd R.S. Patta No. 47 of Mouza Dudpur Part-I, Pargona-Jatrapur is hereinbelow as follows:

i) An area of land measuring 008-00K-05 ch currently at Dag No. 429 is found to be covered under PMGSY road at Village-Dudpur Part-I, Paragona-Jatrapur due to rolling down of earth during execution of work for the construction of side berm/shoulder of the road during the month of January, 2023. During submission of previous report dated 29.09.2022

this activity was under construction. The land record is recorded in the name of father of the petitioner (Suruj Ali) in ejmali and was under the occupation of the petitioner.

ii) An area land measuring 00B-00K-08 Ch from Dag No. 436 is found to be included under PMGSY road at Village-Dudpur Part-I, Paragona-Jatrapur which is recorded in the name of father of the petitioner Suruj Ali in ejmali and was under the occupation of the petitioner.

iii) The land at Dag No 270 is found to have no relation with the PMGSY road. The petitioner has bought the land through Registered Deed but is currently recorded in the name of the petitioner's father Suruj Ali.

iv) Land measuring 01B-04K-04Ch at Dag No. 441 under 2 R.S. Dag no., patta no. 47 is found to be recorded in the name of the petitioner's father Suruj Ali in ejmali along with other co-sharer but it has no relation with PMGSY road construction.

6. A perusal of the aforesaid paragraphs of the affidavit of the respondent No. 5 indicates that admittedly some portion of the land of the petitioner was included under PMGSY road in connection with the construction works. However, no compensation for the admitted inclusion of the petitioner's land has been made till date. It further appears that the petitioner has filed representation before the Deputy Commissioner. However, the same is pending consideration. It further appears that by order dated 15.03.2024, the learned counsel for the respondent No. 5 was given time to obtain instructions from the office of the Deputy Commissioner as to how the Deputy Commissioner and the State

authorities implementing PMGSY are proposing to compensate the land owners under Dag No. 429 and Dag No. 436 for utilizing the land measuring 5 chataks and 8 chataks respectively.

7. No instructions have been placed before this Court today when the matter has been called for. However, there is a consensus between the learned counsels for the parties that the present matter can be disposed of with a direction to the Deputy Commissioner to compensate the land owners/petitioner under Dag No. 429 and Dag No. 436 for the admitted utilisation of the aforesaid land measuring 5 chataks and 8 chataks respectively.

8. In view of the aforesaid consensus, this Court deems appropriate to dispose of the writ petition accordingly.

9. As such, the jurisdictional Deputy Commissioner/ respondent No. 5 is directed to consider the case of the petitioner for compensation for the admitted utilization of the land under Dag No. 429 and Dag No. 436 against 5 chataks and 8 chataks respectively in accordance with law, within a period of three months from the date of receipt of a certified copy of this order.

10. Let a certified copy of this order be submitted before the office of the Deputy Commissioner/respondent No. 5 for doing the needful.

11. This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant