

GAHC010051422019



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

Case No. : WP(C)/1628/2019

JONAKI BORAH
S/O- LT BHADESWAR BORAH, R/O- VILL- NA-PAMUA CHAUDANG, P.O.
AND P.S. CHINAMARA, DIST- JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE
DEPTT., DISPUR, GHY-6

2:THE NORTH EAST FRONTIER RAILWAYS
REP. BY THE GENERAL MANAGER
MALIGAON
GHY-11
DIST- KAMRUP (M)
ASSAM

3:THE DIVISIONAL MANAGER
TINSUKIA DIVISIONAL ZONE
N.F.RAILWAY
DIST- TINSUKIA
ASSAM

4:THE DY. COMMISSIONER
JORHAT
DIST- JORHAT
ASSAM

5:THE CIRCLE OFFICER
MORIANI REVENUE CIRCLE
DIST- JORHAT
ASSA

Advocate for the Petitioner : MR. P K GOGOI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 29.07.2024

1. Heard Mr. P.K. Gogoi, learned counsel for the petitioner; Ms. P Mahanta, learned Standing Counsel, Revenue Department for respondent no. 1; Mr. B. Sharma, learned Standing Counsel, N.F. Railways for respondent nos. 2 and 3; and Mr. B.J. Talukdar, learned Senior counsel, for respondent nos. 4 and 5.

2. The case projected by the writ petitioner is that the family of the writ petitioner is the owner of a plot of land admeasuring 5 Bighas 1 Katha 10 Lessas, covered by Dag no. 62 & K.P. Patta no. 35, situated at Village – Na-Pamua Chaudang Gaon, Mouza – Katani under Mariani Revenue Circle, District - Jorhat, Assam. Relying on a notification bearing no. RLA38/96/2-3 dated 20.03.1996 issued by the Collector, Jorhat on behalf of the Revenue Department, Government of Assam, the petitioner contends that the authority in the Revenue Department, pursuant to the said notification dated 20.03.1996, had acquired a portion of land measuring 3 ½ Kathas out of the total land of 5 Bighas 1 Katha 10 Lessas belonging to the family of the petitioner.

3. It transpires from a perusal of the notification dated

20.03.1996 that it was a notification under Section 4 of the Land Acquisition Act, 1894, whereby it was informed that an area of 9 Bighas 1 Katha 3 Lessas situated in Village – Na-Pamua Chaudang Gaon, Mouza – Katani would be acquired for the public purpose of extension of the Jorhat-Mariani road from 6.32 Km to 12.00 Km. The petitioner has not brought any notification under Section 6 of the Land Acquisition Act, 1894 to the notice of the Court though it has been claimed that a part of the land belonging to the family of the petitioner has been acquired and no compensation for such acquisition has been paid till date. This writ petition has been preferred seeking compensation for acquisition of the aforesaid purportedly acquired parcel of land.

4. In view of the aforesaid projection made by the writ petitioner, a question arose whether the land acquisition proceeding initiated pursuant to notification dated 20.03.1996 under section 4 of the Land Acquisition Act, 1894 has reached its logical conclusion resulting in acquisition of any land belonging to the family of the petitioner as claimed by the petitioner.

5. Such position has been explained by the Additional Deputy Commissioner (Land Acquisition), Jorhat in her affidavit filed on 21.02.2024. At paragraph No. 5, the said respondent took a stand that for the purpose of extension of Mariani-Jorhat Road, a plot of land measuring 2 kathas, 4 lechas, covered by Dag No.62 under Patta No.35 in village Na-Pamua Chaudang Gaon, under Katani Mouza of Mariani Revenue circle who was acquired and an amount of Rs.2,62,416 (Rupees Two Lakh Sixty Two Thousand Four Hundred

Sixteen) only was paid as compensation in the name of the petitioner vide office letter No.JRA.8/2011/104 dated 18/09/2013.

6. The learned counsel for the petitioner in the aforesaid backdrop submits that though the petitioner has received compensation for the land acquired for the purpose of Mariani Jorhat Road, however, Railways are still occupying his land without any acquisition process.

7. Mr. B Sharma learned standing counsel for the Railways on the other hand submits that Railway had not acquired any land of the petitioner, inasmuch as Railways acquire land following due process of law through the Office of the Collector of the concerned district.

8. The learned counsel for the petitioner has also brought to the notice of this court that Circle Officer of the concerned Revenue Circle within whose jurisdiction the land belonging to the petitioner is being occupied by the railways, had already issued a notice to the Railways for proper demarcation of the land of the petitioner and the Railways.

9. In view of the aforesaid, this court is of the considered opinion that nothing survives to be adjudicated in this present writ petition inasmuch as in the event the Circle Officer after demarcation found that patta land of the petitioner is occupied by the Railways, either the Railways is to handover the said land to the petitioner or they will have to acquire the same land following due process of law subject to, however, legal remedy available to Railways against such decision.

10. Accordingly, this writ petition stands disposed of directing the Circle Officer to demarcate the land within a period of 6 six weeks from the date of receipt of a certified copy of this order by giving a reasonable opportunity to the Railway authorities.
11. With the aforesaid observations and directions, the writ petition stands disposed of.
12. Parties to bear their own cost.

JUDGE

Comparing Assistant