

GAHC010066212024



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

Case No. : WP(C)/1834/2024

SANTOSH KUMAR JAIN AND 2 ORS.
S/O- LATE SHREECHAND JAIN, R/O- 401 ABHINANDAN APARTMENT, H.S.
ROAD, CHATTRIBARI, GUWAHATI-781008, DIST. KAMRUP(M), ASSAM

2: SMT. SARITA JAIN
W/O- SHRI SANTOSH KUMAR JAIN
R/O- 401 ABHINANDAN APARTMENT
H.S. ROAD
CHATTRIBARI
GUWAHATI-781008
DIST. KAMRUP(M)
ASSAM

3: SHREYANS JAIN
S/O- SHRI SANTOSH KUMAR JAIN
R/O- 401 ABHINANDAN APARTMENT
H.S. ROAD
CHATTRIBARI
GUWAHATI-781008
DIST. KAMRUP(M)
ASSA

VERSUS

THE UNION OF INDIA AND 11 ORS.
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS REPRESENTED BY ITS
SECRETARY HAVING ITS PRINCIPAL OFFICE AT TRANSPORT BHAWAN,
PARLIAMENT STREET, NEW DELHI-110001.

2: THE NATIONAL HIGHWAY AUTHORITY
REPRESENTED BY ITS CHAIRMAN HAVING ITS OFFICE AND PRINCIPAL
PLACE OF BUSINESS AT TRANSPORT BHAWAN
PARLIAMENT STREET
NEW DELHI-110001.

3:NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
HAVING ITS OFFICE AT PTI BUILDING
3RD FLOOR
4-PARLIAMENT STREET
NEW DELHI-110001.

4:THE NATIONAL HIGHWAY AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED
A FULLY CENTRAL GOVT. COMPANY UNDER THE MINISTRY OF ROAD
TRANSPORT AND HIGHWAY
GOVT. OF INDIA
HAVING ITS OFFICE AND PRINCIPAL PLACE OF BUSINESS AT PTI
BUILDING
3RD BUILDING
3RD FLOOR
4- PARLIAMENT STREET
NEW DELHI-110001 AND HAVING ITS REGIONAL OFFICE AT GNB ROAD
AMBARI IN FRONT OF AGP OFFICE
GUWAHATI-1
REPRESENTED BY ITS EXECUTIVE DIRECTOR (PROJECT).

5:THE STATE OF ASSAM
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GHY-781006.

6:PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GHY-781006.

7:THE SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GHY-781006.

8:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
LAND ACQUISITION BRANCH

REVENUE AND DISASTER MANAGEMENT LR DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GHY-781006.

9:THE DISTRICT COMMISSIONER/ COLLECTOR

KAMRUP
AMINGAON.

10:THE ADDL. DISTRICT COMMISSIONER CUM LAND ACQUISITION
OFFICER FOR NATIONAL HIGHWAY-37.

KAMRUP
AMINGAON.

11:THE CIRCLE OFFICER
PALASBARI REVENUE CIRCLE
AMINGAON
KAMRUP(R).

12:ANIL DAS
DIRECTOR OF ANIL DAS CONSTRUCTIONS PRIVATE LIMITED
HAVING REGISTERED ADDRESS AT BORNIL TOWER
MIRZA-PALASHBARI ROAD
MIRZA
KAMRUP- 781125
ASSA

Advocate for the Petitioner(s) : Mr. J. Das

Advocate for the Respondent(s) : Ms. R. Bora
Mr. A. Bhattacharjee
Mr. S. Sarma
Mr. K. Bhuyan

Date of Hearing and Judgment : 05.08.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGEMENT AND ORDER (ORAL)

Heard Mr. J. Das, the learned counsel appearing on behalf of the petitioners. Ms. R. Bora, the learned counsel appears on behalf of the respondent Nos. 1,2,3 & 4; Mr. A. Bhattacharjee, the learned counsel appears on behalf of the respondent Nos. 5, 6, 7 & 8; Mr. S. Sarma, the learned counsel appears on behalf of the respondent Nos. 9, 10 & 11; Mr. K. Bhuyan, the learned counsel appears on behalf of the respondent No 12.

2. The petitioners herein who claim to be the owners of a plot of land measuring 9 Bighas, 0 Katha, 17 Lechas covered by Dag No. 61 included in K.P. Patta No. 5(Old)/158(New) situated at village-Dhantola, Rangamati, under Mouza- Chayani within the Revenue Circle Palashbari in the District of Kamrup (R) has filed the instant writ petition challenging the actions of the respondent authorities in taking over the land of the petitioners without following the due process.

3. It is the specific case of the petitioners that the respondent No.4 is constructing a four lane National Highway in the stretch of land from Ch. 173.434 K.M. to Ch. 200.750 K.M. for package-10 of Bilasipara-Guwahati road in the District of Kamrup in the State of Assam. While doing so, the respondent authorities, more particularly the, respondent No. 4, in collusion with the respondent Nos. 10 & 12 has taken over the land of the petitioners in violation to the provisions to the National Highways Act, 1956. It is under such circumstances, the petitioners herein have sought for direction upon the respondents to pay compensation as provided under provision of the National Highways Act, 1956 read with the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 and further to hold the construction work in the interim till the respondent authorities do not issue proper notice under the applicable provisions of the National Highways Act, 1956.

4. This Court vide an order dated 03.04.2024 issued notice and in the meantime, directed till the next date of listing and/or until the issuance of notification under Section 3(D) of the National Highways Act, 1956, the respondent Nos. 1 to 4 were restrained from carrying out any activities on the land of the petitioners, reference to which this Court has made in the previous segments of the instant order.

5. Ms. R. Bora, the learned counsel appearing on behalf of the respondent Nos. 1 to 4 submitted that in the meantime, the notifications under Section 3(C) of the National Highways Act, 1956 as well as 3(D) of the said Act of 1956 have been duly issued whereby the land measuring 0.6513 Hectares of the petitioner's land had been acquired under the provisions of the National Highways Act, 1956. In that regard, the learned counsel has drawn the attention of this Court to the said notifications which are a part of the Interlocutory Application filed seeking vacation, modification and/or alteration of the order dated 03.04.2024.

6. This Court has duly taken note of that upon issuance of the notification under Section 3(D) of the Act of 1956, the land measuring 0.6513 Hectares belonging to the petitioners covered by Dag No. 61 included in Patta No.158 has been acquired under the provision of the National Highways Act, 1956. It is the mandate of law that upon issuance of the said notification, the land vested upon the Central Government. Under such circumstances, this Court finds no reason to keep the instant writ petition pending.

7. Mr. J. Das, the learned counsel appearing on behalf of the petitioners submits that the land which has been acquired is only 0.6513 Hectares whereas the petitioners land is much more. This Court makes it clear that the land which has been acquired and it being only 0.6513 Hectares, the respondent Nos. 1 to 4 including the respondent No. 10 & 12 shall not have any right to disturb the possession in respect to other lands beyond 0.6513 Hectares. The petitioners herein would further be entitled to compensation in respect to the acquired land and if the petitioners are aggrieved at inadequacy of the compensation, the petitioners are always at liberty to avail remedies under the Act of 1956.

8. With the above observation(s) and direction(s) the instant writ petition stands disposed of.

9. The interim order, passed earlier, stands vacated.

10. Interlocutory application, if any filed in connection with the instant writ petition also stands disposed on the basis of the instant order.

JUDGE

Comparing Assistant