

GAHC010068602021



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

Case No. : WP(C)/2643/2021

SAHIDUR RAHMAN
S/O LATE TOFAZUL HUSSAIN
RESIDENT OF DERGAON TOWN, WARD NO. 6, NH 37, MOUZA DERGAON,
PS AND DIST DERGAON, ASSAM 785614

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE MINISTRY OF ROAD, TRANSPORT AND
HIGHWAYS, NEW DELHI

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
REVENUE DEPARTMENT
DISPUR GUWAHATI

3:THE DEPUTY COMMISSIONER

GOLAGHAT
ASSAM

4:THE ADDITIONAL COMMISSIONER

GOLAGHAT. ASSAM

5:THE CIRCLE OFFICER

DERGAON
ASSAM

6:THE NATIONAL HIGHWAY AUTHORITY OF INDIA
INDIA

Advocate for the Petitioner(s) : Mr. R. Goswami

Advocate for the Respondent(s) : Mr. S. Baruah

Date of Hearing and Judgment : 29.07.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
JUDGEMENT AND ORDER (ORAL)**

Heard Mr. R. Goswami, the learned counsel appearing on behalf of the petitioner. Mr. S. Baruah, the learned counsel appears on behalf of the State respondents. None appears on behalf of the National Highways Authority of India on call.

2. The petitioner herein is aggrieved on account of not granting of compensation in respect to the land acquired by the petitioner. It is the case of the petitioner that the petitioner is the owner of a plot of land measuring 3 Kathas, 14 Lechas covered by Dag No. 2246 (old) included in Patta No. 18 (old) situated at village Dergaon Town under Mouza- Dergaon in the district of Golaghat. It is the further case of the petitioner that after the partition being carried out, his name was recorded in the Jamabandi under the Dag No. 3191 of Patta No. 54 (New) of an area admeasuring 8.75 Lechas. The land was classified as 1st class commercial land. It is also the case of the petitioner that the petitioner had also constructed a building over the said land. A part of the said land was included in a notification issued in terms with Section 3 (C) of the National Highways Act, 1956. It is the case of the petitioner that the respondent authorities had demolished a part of the building which stood over the land in question and further had taken the portion of the land belonging to the petitioner but the petitioner has also not been paid any compensation. It is under such circumstances that the instant writ petition has been filed.

3. Pursuant to the filing of the instant writ petition, it is seen that the Deputy Commissioner, Golaghat has filed an affidavit-in-opposition wherein it has been mentioned that the land measuring 0.078000 (Hectare) (6 Lechas)

covered by Dag No. 2246 under NK-18 Dergaon under Dergaon Mouza has been acquired for construction of by lane connecting the four lane National Highway. It has also been mentioned that as per the Circle Officer report dated 26.10.2021 based on the verification by the Lat Mandal, the following persons namely (1) Sri Niren Borthakur, (2) Sri Chandan Borthakur, (3) Sri Santanu Borthakur, (4) Sri Sumanta Borthakur are all sons of Late Surkanta Borthakur (5) Sri Dilip Borthakur, (6) Smti. Aniali Borthakur (7) Sri Satyajit Borthakur and (8) Smti. Rumi Borthakur are the actual pattadars of the said land acquired. It is categorically mentioned that the name of the petitioner is not included in the land acquired out of Dag No. 2246 of NK-18 and as such the petitioner is not entitled to any compensation. It has also been categorically mentioned in paragraph No. 6 of the said affidavit that Dag No. 3191 on which the petitioner claims right has not been acquired or is the part of the notification issued under the National Highways Act, 1956.

4. This Court has heard Mr. R. Goswami, the learned counsel appearing on behalf of the petitioner and Mr. S. Baruah, the learned counsel appearing on behalf of the respondents. In addition to that, this Court also has perused Annexure-1 to the writ petition which is the notification issued under Section 3 (C) of the National Highways Act, 1956.

5. From a perusal of the said notification, it is not seen that the Dag No. 3191 is the part of the acquisition proceedings. However, Mr. R. Goswami learned counsel submitted that Dag No. 2246/NK18 is the land later on was renumbered as Dag No. 3191. This Court taking into account that the issue which has been involved as to whether the petitioner's land has been acquired or not and there being specific denial to the effect that Dag No. 3191 has been acquired, this Court is not in a position to decide the same aspect of the matter, in view of serious disputed question of facts involved. It is also seen that there has been no affidavit-in-reply filed to the affidavit-in-opposition by the respondent No. 3. Taking into account that these are disputed questions of facts, the petitioner would be well advised to agitate the said aspect of the matter in the proceedings under Section 3H(4) of the National Highways Act, 1956.

6. Accordingly, this Court is not inclined to entertained the instant writ petition for the reasons aforesaid. However liberty is granted to the petitioner to approach the concerned Court in terms with Section 3H(4) of the National Highways Act, 1956, if so advised. It is further made clear that if the petitioner

approaches the said Court within a period of 45 days from today, the said application shall be decided on merits.

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

JUDGE

Comparing Assistant