

GAHC010088052024



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

Case No. : WA/143/2024

ASIRUDDIN AHMED

S/O- LT. DIADARUDDIN, R/O- VILL- BOGACHALA, P.O.- TENGARA, P.S.-
SIPAJHAR, DIST.- DARRANG, ASSAM, PIN - 781126.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, (DMLR) DISASTER MANAGEMENT AND LAND REVENUE
DEPARTMENT, DISPUR, GHY-6, K(M), ASSAM.

2:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
DMLR DEPARTMENT
DISPUR
GHY-06
K(M)
ASSAM.

3:THE DEPUTY COMMISSIONER
DARRANG
MANGALDOI
ASSAM
PIN- 784125.

4:THE UNDER SECRETARY TO THE GOVT. OF ASSAM
WATER RESOURCE DEPT.
CHANDMARI
GHY-03
K(M)
ASSAM.

5:THE CHIEF ENGINEER

WATER RESOURCE DEPARTMENT
CHANDMARI
GHY-03
K(M)
ASSAM.

6:THE EXECUTIVE ENGINEER
MANGALDOI WATER RESOURCES DIVISION
MANGALDOI
DARRANG
ASSAM

PIN- 784125.

7:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06
KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR S HUSSAIN

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

10.05.2024

(Vijay Bishnoi, CJ)

This intra-court appeal has been filed by the appellant being aggrieved with the order dated 08.04.2024, passed by the learned Single Judge in WP(C) 1974/2024, whereby the writ petition filed by the appellant herein has been dismissed with cost of Rs. 10,000/- to be paid to the Gauhati High Court Bar Association Welfare Fund.

The appellant had filed the writ petition, being WP(C) 1974/2024, before this Court with the prayer that the respondents therein be directed to pay compensation to him for the land which the respondents had acquired in the year 2003.

The appellant/writ petitioner contended before the learned Single Judge that till filing of the writ petition not a single penny had been paid to him. In the said writ petition, notices were issued and, during pendency of the writ petition an amount of Rs. 86,13,601/-, being the principal amount, was released in favour of the appellant/writ petitioner. The appellant thereafter filed WP(C) 4942/2021 raising a grievance before the learned Single Judge regarding enhancement of compensation and non-payment of interest on the said delayed compensation amount. The learned Single Judge, vide order dated 18.12.2023 disposed of the said writ petition while granting liberty to the appellant/writ petitioner to file appropriate application under Section 12 of the Assam Land (Requisition and Acquisition) Act, 1964 (for short, "Act of 1964") before the District Commissioner, Darrang, seeking a reference for redressal of his grievance with regard to the inadequacy of the compensation in respect of the acquisition of his land and the interest thereon.

Being aggrieved with the aforesaid order dated 18.12.2023, whereby the writ petition was disposed of with the above-referred liberty, the appellant preferred an appeal, being WA No. 13/2024, before the Division Bench of this Court, which came to be dismissed as withdrawn vide order dated 22.01.2024. Thereafter the appellant/writ petitioner preferred a Review Petition before the Division Bench, being Review Petition No. 29/2024, which also came to be dismissed as withdrawn vide order dated 05.03.2024. Immediately thereafter, the appellant preferred a representation under Section 12 of the Act of 1964

before the District Commissioner, Darrang, on 08.03.2024 and, during pendency of the said representation, the appellant preferred the writ petition [WP(C) 1974/2024] before the learned Single Judge.

The learned Single Judge, taking into consideration the above facts and circumstances of the case, has dismissed the writ petition vide the impugned order with cost of Rs. 10,000/- while observing that the writ petition is premature and that the appellant had not approached this Court of equity with clean hands and with *bona fide* purpose.

Assailing the impugned order, the learned counsel appearing for the appellant has tried to impress upon this Court regarding inadequacy of the compensation amount and the interest thereon.

We fail to understand that when the said contention of the appellant/writ petitioner was already addressed by the learned Single Judge in the earlier writ petition and the learned Single Judge granted liberty to the appellant/writ petitioner to approach the District Commissioner, Darrang, under Section 12 of the Act of 1964, how can the appellant be permitted to raise the same issue before this Court, particularly when the appeal filed by the appellant against the order passed by the learned Single Judge has been dismissed as withdrawn and the Review Petition filed thereafter has also been withdrawn.

Despite the above position being clarified to the learned counsel for the appellant, he attempted to persuade that this Court should revisit the merits of the case.

Taking into consideration the above facts and circumstances of the case, we are of the view that the learned Single Judge has rightly observed in the impugned order that the that the appellant has not approached the Court with

clean hands and with *bona fide* purpose. Hence, we are also of the view that the cost imposed by the learned Single Judge is on lesser side and the conduct of the appellant deserves higher cost. However, looking to the old age of the appellant, i.e. 74 years, we restrain ourselves from enhancing the cost.

In view of the above, we do not find any reason to interfere with the impugned order.

Resultantly, the appeal is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant