

GAHC010088592023



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

Case No. : WP(C)/2306/2023

DR. HRISHIKESH DEKA
S/O DR. DILIP KUMAR DEKA, R/O KANAKLATA PATH, LACHIT NAGAR,
GUWAHATI-781005, DIST-KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER SECRETARY TO THE GOVT. OF
ASSAM, REVENUE AND DISASTER MANAGEMENT (LR) DEPARTMENT,
DISPUR, GUWAHATI-05, DIST-KAMRUP (M), ASSAM

2:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
DIST-KAMRUP
PIN-781031
ASSAM

3:THE LAND ACQUISITION OFFICER
KAMRUP
AMINGAON
DIST-KAMRUP
PIN-781031
ASSAM

4:KAMAL JODHANI
S/O LATE CHETRAM JODHANI
R/O D. NEOG PATH
(ABC)
G.S. ROAD
GUWAHATI-05
DIST-KAMRUP (M)
ASSAM

For the Petitioner(s) : Mr. S. Ali, Advocate

For the Respondent(s) : Mr. S. Baruah, Govt. Advocate
Mr. A. Bhattacharjee , SC, Revenue Department
Mr. A. Phukan, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 12.11.2024

Heard Mr. S. Ali, the learned counsel appearing on behalf of the petitioner, Mr. S. Baruah, the learned Government Advocate appearing on behalf of the District Administration, Mr. A. Bhattacharjee, the learned Standing Counsel appearing on behalf of the Revenue Department and Mr. A. Phukan, the learned counsel appearing on behalf of the private respondent.

2. The dispute in the instant case pertains to who would be entitled for the compensation in respect to a plot of land admeasuring 2 kathas 18 lechas covered by Dag No. 334 of Kheraj Myadi Patta No. 56 of village - Gauripur (Malukhatal) under Mouza- Silasundorighopa, in the district of Kamrup, Assam which is the subject matter of an acquisition being L.A. Case No. 18/2018 initiated under the provisions of the Assam Land (Requisition and Acquisition) Act, 1964 (for short 'the Act of 1964').

3. The case of the petitioner herein is that the petitioner is the owner of the said plot of land and as such, the petitioner is entitled to the said amount. It is further stated by the petitioner that the petitioner had already received the zirat compensation however, the compensation in respect to the land in question have not been paid to the petitioner.

4. Per contra Mr. A. Phukan, the learned counsel appearing on behalf of the private respondent submitted that he is the owner of the said plot of land and as such, the private respondent is entitled to the compensation. Mr. A. Phukan, the learned counsel appearing on behalf of the private respondent further submits that the zirat compensation which has been paid to the petitioner was on account of certain documents placed thereby misrepresenting before the Collector.

5. From a perusal of the materials on record as well as the hearing of the learned counsels appearing on behalf of the parties, the question therefore arises as to whether the petitioner or the private respondent is entitled to the compensation in respect to the land in question. Taking into account that Section 12 of the Act of 1964 permits that if a person has any disagreement with regard to whom the compensation is payable under Section 11(4) of the Act of 1964, the person concerned can seek a reference to the Court by filing an application before the Collector seeking a reference. It further transpires from a reading of Section 12 of the Act of 1964, that an obligation is cast on the Collector to make the reference.

6. It is further seen that in terms with Sub-section (2) of Section 12 of the Act of 1964, the provisions of the Land Acquisition Act, 1894 (for short 'the Act of 1894') have been legislatively incorporated meaning thereby the provisions of Section 18 and 30 of the Act of 1894 would apply when such reference is sought.

7. A perusal of Section 30 of the Act of 1894 shows that the if there is a disagreement as regards the apportionment of the compensation or as regards who is entitled to the compensation, a duty is cast upon the Collector to make a reference to the Court and further deposit the said amount in terms with

Section 31 before the Reference Court.

8. Taking into account the above provisions of law and the facts in the instant case, this Court is not inclined to entertain the instant writ petition for two reasons. First, availability of an alternative and efficacious remedy under the Act of 1964 read with the Act of 1894. Secondly, the question which have been raised are disputed questions of the facts and the alternative remedy is the most efficacious to decide such disputed facts.

9. Accordingly, this Court grants the liberty to both the petitioner as well as the private respondent to file applications before the Collector seeking a reference as regards their entitlement to the compensation which have been determined by the Collector in respect to the land in question in L.A. Case No. 18/2018.

10. This Court further observes and directs that the Collector upon such application being filed shall refer the matter to the Reference Court for adjudication. It is further directed that till such applications are filed as per the liberty granted herein above, the Collector shall not disburse any amount in respect to L.A. Case No. 18/2018, pertaining to the land in question. However, upon the reference application being filed, the Collector shall deposit the said amount before the Reference Court in terms with Section 31(2) of the Act of 1894.

11. With the above observations and directions the instant writ petition is disposed of.

JUDGE

Comparing Assistant