

GAHC010112122021



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

Case No. : WP(C)/3638/2021

MUSLIM ALI @ MUCHALIM ALI
S/O ALI AKBAR
VILL- DEOTARI (PART-I)
P.O. ALUKHUNDA
P.S. MANIKPUR
DIST. CHIRANG, BTAD, ASSAM
PIN-783391

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE MANAGING DIRECTOR

ASSAM ELECTRICITY GRID CORPORATION LIMITED (AEGCL)
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI-781001

4:THE CHIEF GENERAL MANAGER

TRANSMISSION AND TRANSFORMATION (T AND T) ASSAM ELECTRICITY
GRID CORPORATION LIMITED (AEGCL)
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI-781001

5:THE ASSISTANT GENERAL MANAGER

220KV GRID SUB-STATION DIVISION
ASSAM ELECTRICITY GRID CORPORATION LTD (AEGCL)
DHALIGAON
DIST. CHIRANG
P.O. DHALIGAON
PIN-783385

6:THE DEPUTY COMMISSIONER OF BONGAIGAON DISTRICT

P.O. BONGAIGAON
PIN-783380

7:THE CIRCLE OFFICER

BIJNI REVENUE CIRCLE

P.O. BIJNI
DIST. BONGAIGAON
PIN-78339

For the Petitioner(s) : Mr. K. Rahman, Advocate

For the Respondent(s) : Ms. U. Das, Addl. Sr. GA
: Mr. A. Bhattacharjee, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 23.01.2024

1. The instant writ petition has been filed by the Petitioner claiming an amount of Rs.1,96,452/- along with interest @ 14% per annum in respect to the amount pertaining to compensation relating to construction/erection of the line by the Assam Electricity Grid Corporation Limited.
2. The Petitioner in the instant case was issued a notice under the Indian Electricity Act, 2003 on 02.04.2019 wherein it was mentioned that the Petitioner would be entitled to an amount of Rs.1,96,452/-. However, the said amount was

not released to the Petitioner and upon enquiry, the Petitioner could come to learn that the said amount was not paid by the District Administration on the ground of some public complaint. It is under such circumstances, the Petitioner had approached this court by filing the writ petition seeking the relief(s) as aforementioned.

3. This Court had also taken note of the affidavit-in-opposition filed by the Respondent No.6 i.e. the Deputy Commissioner, Bongaigaon wherein it has been mentioned that the land in question pertains to Dag No.7 of Village Deotari Part-1 wherein the Petitioner's name was not recorded as well as also on field verification, it was found that the Petitioner was not in possession. It was therefore mentioned that under such circumstances, the the said amount of Rs.1,96,452/- was not released to the Petitioner although the cheque was sent by the Assam Electricity Grid Corporation Ltd.

4. This Court have also taken note of the affidavit filed by the Assam Electricity Grid Corporation Ltd. wherein also it has been mentioned that according to the estimates so given by the District Administration, the cheques were duly disbursed to the Circle Officer for onward payment however, the cheque in respect to the Petitioner was returned.

5. This Court has also taken note of the affidavit-in-replies filed by the Petitioner to both the affidavit-in-opposition filed by the Assam Electricity Grid Corporation Ltd. as well as the District Administration. In the said affidavit-in-reply, it has been mentioned that after due verifications conducted, the notice dated 02.04.2019 was issued and thereupon the cheque was issued by the AEGCL authorities of an amount of Rs.1,96,452/-. It was further mentioned that the Petitioner was issued a notice by the Circle Officer, Bijni on 08.04.2021 and the Petitioner duly appeared before the said Officer but thereupon the amount

has not been paid. Further to that, the Petitioner has also enclosed two revenue receipts for the years 2014-15 and 2021-22. However, a perusal of the said revenue receipts shows that the payment of revenue was made on behalf of one Ali Akbar by one Nur Islam and the same pertains to 9 number BJ of an area of land 5 Bighas 2 Kathas 12 Lechas. This however does not tally with the affidavit filed by the Respondent No.6 to that effect that the land in question pertains to Dag No.7.

6. The above therefore clearly shows that there are disputed questions of facts which can only be decided in an appropriate forum where such facts can be adjudicated. This Court is of the opinion that such intricate and complicated adjudication of facts cannot be made in a proceedings under Article 226 of the Constitution. Under such circumstances, this Court therefore is not inclined to entertain the instant writ petition under Article 226 of the Constitution.

7. Be that as it may, this Court however grants the liberty to the Petitioner to approach the appropriate forum and the non-entertaining of the instant writ petition and the consequent dismissal of the instant writ petition would not prejudice the Petitioner in such proceedings, if so initiated by the Petitioner. Further to that, taking into account that the Petitioner has been bonafidely litigating before this Court, the period from 27.07.2021 (the date of filing the instant writ petition) till today be excluded while computing the period of limitation.

8. With above observations and directions, the instant writ petition stands dismissed.

JUDGE

Comparing Assistant