

GAHC010141952022



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

Case No. : WP(C)/4723/2022

SARBESWAR TAMULI AND 12 ORS
S/O HARUMAINA TAMULI, VILL.- GAURISAGAR (PHUKANPHODIA), P.O.
AND P.S. GAURISAGAR (PHUKANPHODIA), DIST.- SIVASAGAR, ASSAM-
785664.

2: MD. DILWAR HUSSAIN
S/O LATE HOONFER ALI
VILL.- KUKURAPOHIA
P.O.- BANMUKH
DIST.- SIVASAGAR
ASSAM- 785663.

3: MD. RAFIK ALI
S/O LATE SECONDAR ALI
P.O.- DEHAJAN
DEMOW
DIST.- SIVASAGAR
ASSAM- 785662.

4: MD. PUTUL AHMED
S/O LATE SEKENDAR ALI
VILL.- DEHAJAN
P.O.- DEMOW
DIST.- SIVASAGAR
ASSAM- 785662.

5: NIRMAL CH. GOGOI
S/O SUNARAM GOGOI
RUPOHIBILL BHATIAPAR GAON
P.O.- BHATIAPAR
DIST.- SIVASAGAR
ASSAM- 785667.

6: BISWANATH AGARWALLA

S/O LATE BHURAMOL AGARWALLA
VILLAGE- GAURISAGAR (PHUKANPHOIDIA)
P.O. AND P.S.- GAURISAGAR (PHUKANPHOIDIA)
DIST.- SIVASAGAR
ASSAM- 785664.

7: SANJOY AGARWALLA
S/O LATE TULARAM AGARWALLA
VILL.- GAURISAGAR
P.O. AND P.S.- GAURISAGAR
DIST.-SIVASAGAR
ASSAM- 785664.

8: ASHOKE KR. NEOG
S/O LATE BHUBAN CH. NEOG
VILL.- GAURISAGAR
P.O. AND P.S.- GAURISAGAR
DIST.- SIVASAGAR
ASSAM- 785664.

9: BHANUMOTI SADHANIDAR
W/O LATE PUNYA SADHANIDAR
VILL.- GAURISAGAR
P.O. AND P.S.- GAURISAGAR
DIST.- SIVASAGAR
ASSAM- 785664.

10: KUSHOL KONWAR
S/O LATE BAPUKON KONWAR
VILL.- GAURISAGAR
P.O. AND P.S.- GAURISAGAR
DIST.- SIVASAGAR
ASSAM- 785664.

11: LOKNATH DAS
S/O LATE SUNARAM DAS
VILL.- GAURISAGAR (NAMDANG SILASAKU)
P.O.- GAURISAGAR
PIM- 785664
DIST.- SIVASAGAR
ASSAM.

12: ANNADA DUTTA
W/O LATE JUGANANDA BORA
VILL.- GAURISAGAR
P.O. AND P.S.- GAURISAGAR
DIST.- SIVASAGAR
ASSAM- 785664.

13: ANANDARAM BARUAH
S/O- LATE KANAK CH. BARUAH
VILL.- PAVOJAN
P.O.- AAILAMUKH
DIST.- SIVASAGAR
ASSAM- 785664

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY OF MINISTRY OF ROAD TRANSPORT AND
HIGHWAYS, NEW DELHI- 110001.

2:THE CHAIRMAN
NATIONAL HIGHWAYS AUTHORITY OF INDIA
HAVING ITS HEADQUARTERS AT SECTOR 10
DWARKA
NEW DELHI
PIN- 110075
NEW DELHI.

3:THE PROJECT DIRECTOR
NATIONAL HIGHWAYS AUTHORITY OF INDIA
REGIONAL OFFICE AT SANKET VIHAR
SWARAJ NAGAR
SARUMOTORIA
GUWAHATI- 05
ASSAM.

4:THE GENERAL MANAGER
NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORPORATION
(NHIDCL)
PMU
JORHAT
4TH FLOOR
HOTEL JIRONI
NH-37 BYPASS
JORHAT
ASSAM
PIN- 785006.

5:THE DEPUTY COMMISSIONER
SIVASAGAR
DIST.- SIVASAGAR
DIST.- SIVASAGAR
PIN- 785640
ASSAM.

6:THE ADDITIONAL DEPUTY COMMISSIONER
LAND ACQUISITION
SIVASAGAR
PIN- 78560
ASSAM.(COMPETENT AUTHORITY UNDER THE NATIONAL HIGHWAYS
ACT
1956)

For the Petitioner(s) : Mr. P. Mahanta, Advocate

For the Respondent(s) : Mr C. Baruah, CGC
Ms. S. Baruah, Govt. Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 11.11.2024

Heard Mr. P. Mahanta, the learned counsel appearing on behalf of the petitioners, Mr. C. Baruah, the learned CGC appearing on behalf of the NHAI as well as the NHIDCL and Ms. S. Baruah, the learned Government Advocate appears on behalf of the District Administration including the CALA.

2. The petitioners herein are aggrieved by the determination of compensation by the Competent Authority under Section 3G(1) of the National Highways Act, 1956 (for short 'the Act of 1956') on the grounds that the Competent Authority have not included the solatium interest as well as the other compensation components as stipulated in Schedule-I to Schedule-III of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013') which was made applicable for acquisition made under the National Highways Act, 1956.

3. Mr. P. Mahanta, the learned counsel appearing on behalf of the petitioners

submitted that the petitioners are entitled to the additional amounts taking into account the well settled principles of law laid down by the Supreme Court in the Case of **National Highways Authority of India vs P. Nagaraju @ Cheluvaiah & Another** *reported in (2022) 15 SCC 1* and further submitted that in terms with Section 3G(7) of the Act of 1956, it was incumbent upon the Competent Authorities to determine the compensation as per law. He therefore submitted that this is a fit case where this Court ought to exercise the writ jurisdiction in the instant proceedings.

4. Per contra Mr. C. Baruah, appearing on behalf of the NHAI as well as the NHIDCL submitted that if the petitioners are aggrieved with the compensation, the petitioners had the remedy under Section 3G(5) of the Act of 1956.

5. This Court has heard the learned counsels appearing on behalf of the parties and has also perused the materials on record. This Court further takes note of Section 3G(5) of the Act of 1956 which categorically mandates that any of the parties to the proceedings being aggrieved as regard the determination of the quantum of compensation, the matter can be referred to the Arbitrator.

6. Consequently, this Court is not inclined to entertain the instant writ petition in view of the alternative and efficacious remedy available. Accordingly, this Court therefore, disposes of the instant writ petition with a liberty to the petitioners to submit individual representation(s) to the Competent Authority, who, shall upon receipt of the same, shall forward the same to the Arbitrator appointed under Section 3G(5) of the Act of 1956.

7. In the said proceedings, the petitioner would be at liberty to raise all the issues as regards the inadequacy of the compensation on the basis of the well settled principles of law.

8. With the above observations and directions the instant writ petition stands disposed of.

JUDGE

Comparing Assistant