

GAHC010146302022



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

Case No. : WP(C)/4884/2022

MD. ABUL HUSSAIN AND ANR.
S/O- LT. MOHAR ALI,
VILL. 2 NO. JAMBARI,
P.O.- JAMBARI, P.S. BOKO,
DIST. KAMRUP, ASSAM,
PIN- 781123.

2: THUNU BIBI
W/O- LT. AMIR ALI

VILL. 2 NO. JAMBARI

P.O.- JAMBARI
P.S. BOKO

DIST. KAMRUP
ASSAM

PIN- 781123

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE (R AND R) DISASTER
MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
ASSAM
PIN NO. 781031.

3:THE ADDITIONAL DEPUTY COMMISSIONER AND LAND ACQUISITION

OFFICER
KAMRUP
ASSAM
PIN- 781301.

4:THE CIRCLE OFFICER
CHHAYGAON REVENUE CIRCLE
CHHAYGAON
ASSAM
PIN- 781124.

5:THE MANAGING DIRECTOR
ASSAM INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION (AIIDC)
INDUSTRIAL ESTATE
BAMUNIMAIDAM
GHY.- 21.

6:IBRAHIM ALI
S/O. LT. AMIR HUSSAIN
R/O.- VILL.- MAZ PARA CHHAYGAON
P.O. CHHAYGAON
P.S. CHHAYGAON
DIST. KAMRUP
ASSAM
PIN- 781124.

7:GOFFAR ALI
S/O. LT. AMIR HUSSAIN
R/O.- VILL.- MAZ PARA CHHAYGAON
P.O. CHHAYGAON
P.S. CHHAYGAON
DIST. KAMRUP
ASSAM
PIN- 781124.

8:IMRAN HUSSAIN
S/O. LT. AMIR HUSSAIN
R/O.- VILL.- MAZ PARA CHHAYGAON
P.O. CHHAYGAON
P.S. CHHAYGAON
DIST. KAMRUP
ASSAM
PIN- 781124

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 19-03-2024

1. Heard Mr. H.R. Ahmed learned counsel for the petitioners. Also heard Ms. G Hazarika learned counsel for the respondent No.1, Mr. H Sarma learned counsel for respondent Nos.2, 3 and 4, Mr. M.M. Zaman learned counsel for respondent No.5, Mr. S.D. Purkayastha learned counsel for respondent Nos.6 and 7 and Mr. A Dekka learned counsel representing respondent No.8.

2. The grievance of the petitioners is that the petitioners are person interested so far it relates to acquisition of land under LA Case No.5/2021 and they claims compensation for the land acquisition. From the affidavit of the Additional Deputy Commissioner, Kamrup (M), Guwahati, it is seen that an award for an amount of Rs.26,37,440.00 was passed in the aforesaid LA Case in favour of the recorded pattadar i.e., the predecessor in interest of the respondent Nos.6, 7 and 8.

3. The claim of the petitioner was rejected by an order dated 15.07.2022 by the Additional Deputy Commissioner, Kamrup Amingaon.

4. Under the scheme of The Assam Land (Requisition and Acquisition) Act, 1964, the Collector is empowered to initiate the process for requisition and acquisition after adherence of due process as mandated under Section 6 and 9 of the Act. The Collector is

empowered to pass an award under section 11(1) of the Act.

5. In the case in hand, it is an admitted position that the award has already been passed in exercise of power under section 11(1) of the Act. section 12 of the Act further mandates that when any person is aggrieved by an award made under sub-section (3) of section 11 makes an application requiring the matter to be referred to the court or if there is any disagreement with the compensation payable under sub-section 4 of section 11, on the application of the person entitled to compensation requiring the matter to be referred to the court, the Deputy Commissioner is to refer the matter to the Referral Court. However, in the case in hand, the Collector himself has taken a decision as regards the entitlement of compensation made by the petitioner.

6. The right course of action in the given facts of the present case is to treat the application filed by the petitioner as an application under section 12(1) of the Act of 1964 and refer the matter to the Referral Court.

7. Law is well settled that the dispute as to the person entitled to receive the compensation is to be determined by the Referral Court and the Collector is not empowered to decide such dispute but to refer such dispute to the Referral Court.

8. That being the position the impugned order dated 15.07.2022 is not sustainable under the scheme of The Assam Land (Requisition and Acquisition) Act, 1964, more particularly in view of the provisions of Section 12 of the Act,

9. Accordingly the impugned order dated 15.07.2022 is set

aside and quashed. The Collector is directed to treat the application filed by the petitioner dated 27.06.2022 and send the same to the Referral Court within a period of 60 (sixty) days from the date of receipt of a certified copy of this order to be furnished by the petitioner upon the Collector.

JUDGE

Comparing Assistant