

GAHC010151172024



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

Case No. : WP(C)/3871/2024

SAMSUL HAQUE LASKAR
S/O- LATE MAYUB RAJA LASKAR, PERMANENT RESIDENT OF VILLAGE-
SAPTAGRAM, PORGONA-DAVIDSONABAD, P.O. SAPTAGRAM, P.S. DHOLAI,
DISTRICT- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR GUWAHATI- 781006

2:THE EXECUTIVE DIRECTOR
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
REGIONAL OFFICE
GUWAHATI
2ND FLOOR
AGNISHANTI BUSINESS PARK
GNB ROAD
OPP. AGP OFFICE
AMBARI
GUWAHATI- 781001

3:THE DEPUTY COMMISSIONER
CACHAR
OFFICE OF THE DEPUTY COMMISSIONER
DACK BANGLOW ROAD
NEAR COURT COMPOUND
TARAPUR
SILCHAR
DISTRICT- CACHAR
ASSAM

PIN- 788001

4:THE ASSISTANT SETTLEMENT OFFICER
SONAI
DISTRICT- CACHAR
ASSAM
PIN- 788119

5:AJIB UDDIN LASKAR
S/O- LATE IRFAN ALI LASKAR
R/O- VILLAGE- SAPTAGRAM
PORGONA-DAVIDSONABAD
P.O. SAPTAGRAM
P.S. DHOLAI
DISTRICT- CACHAR
ASSAM
PIN- 788114

6:MOHAMMED NOOR ISLAM LASKAR
S/O- LATE LIYAKAT ALI LASKAR
R/O- VILLAGE- SAPTAGRAM
PORGONA-DAVIDSONABAD
P.O. SAPTAGRAM
P.S. DHOLAI
DISTRICT- CACHAR
ASSAM
PIN- 788114

7:BABUL ISLAM BARBHUIYA
S/O- LATE AJAR ALI BARBHUIYA
R/O- VILLAGE- SAPTAGRAM
PORGONA-DAVIDSONABAD
P.O. SAPTAGRAM
P.S. DHOLAI
DISTRICT- CACHAR
ASSAM
PIN- 78811

For the Petitioner(s) : Ms. S. Kar, Advocate

For the Respondent(s) : Ms. M. Barman, Jr. Government Advocate
: Mr. R. K. Talukdar, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 09.08.2024

Heard Ms. S. Kar, the learned counsel appearing on behalf of the Petitioner and Ms. M. Barman, the learned Junior Government Advocate appearing on behalf of the Respondent State. I have also heard Mr. R. K. Talukdar, the learned Standing counsel appearing on behalf of the Respondent No.2.

2. The Petitioner herein has filed the instant writ petition being aggrieved by the action on the part of the Respondent Authorities in releasing the compensation in respect to the land belonging to the Petitioner to the private respondents.

3. In the writ petition, it has been alleged that the private Respondents are not entitled to the amount as they are only trespassers and the Petitioner is the land owner of the land in question as well as is the only person who is the person interested. On the last occasion i.e. on 05.08.2024, the matter came up before this Court and in view of the fact that the learned counsel for the petitioner was not aware in respect to which L.A. Case the compensation was to be paid, this Court fixes the matter today.

4. Today, when the matter is taken up, Ms. S. Kar, the learned counsel submitted that on 02.08.2024, the Circle Officer, Sonai Revenue Circle had issued a notice to the Petitioner pursuant to the objection filed by the Petitioner as regards compensation of the land/Zirat pertaining to Dag No.867 under 2nd R.S Patta No.36 and the Petitioner was asked to

appear before the Circle Officer, Sonai Revenue Circle on 08.08.2024 at 11:00 AM with all evidence/papers/registered Sale Deeds in support of the Petitioner's claim. In accordance therewith, the Petitioner had duly appeared before the Circle Officer, Sonai Revenue Circle and it has been submitted that the said Officer had duly heard the petitioner and reserved his orders.

5. In addition to that, this Court also finds it relevant to take note of the instructions so received from Additional District Commissioner, Cachar dated 07.08.2024 in respect to the instant proceedings. It has been stated in the said instruction that Dag No.864 under 2nd R.S Patta No.36 have not been acquired for the construction of the Silchar - Vairengte Road under Bharatmala Project for construction of the road by NHIDCL. However, 8 Kathas 14 Chataks 11 Gondas of land covered by Dag No.867 under 2nd R.S Patta No.36 have been acquired by initiating L.A. Case No.35/2023-24 in village - Sapatgram and compensation on the structures on the land have been paid to (i) Babul Islam Barbhuiya, (ii) Riyajul Haque Laskar and (iii) Irpan Ali Laskar who were in the possession of the land. However, the land compensation has not yet been paid.

6. Taking into account the above, this Court is of the opinion that keeping the matter pending would not be in the interest of justice rather passing appropriate directions at this stage by disposing the writ petition would only be in the interest of the parties before this Court.

7. Under such circumstances, this Court disposes of the instant writ petition thereby directing the Circle Officer, Sonai Revenue Circle to pass

appropriate orders on the basis of the hearing so conducted on 08.08.2024. This Court further observes that in the eventuality, the said Official passes an order against the petitioner, the petitioner would be at liberty to approach the competent Court in terms with Section 3H(4) of the National Highways Act, 1956 (for short "the Act of 1956"). This Court further directs the Respondent Authorities not to release the compensation to the persons interested upon the passing of the order by the Circle Officer for a period of 30 days from the date of such order. However, in the circumstances, the petitioner fails to produce any document showing that any application has been filed under Section 3H(4) of the Act of 1956, the Respondent Authorities would be at liberty to release the compensation in accordance with law. It is further observed that in the eventuality, an application is filed before the Court in terms with Section 3H(4) of the Act of 1956, the Respondents shall deposit the amount payable to the persons interested in respect to the land in question before the Court where Section 3H(4) of the Act of 1956 is filed.

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

JUDGE

Comparing Assistant