

GAHC010151362024



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

Case No. : WP(C)/3831/2024

NIMAI CHANDRA DAS AND ANR
S/O- LATE JATINDRA DAS, R/O- NO. 1 PIPAL PUKHURI LANKA TOWN,
WARD NO. 5, P.O. AND P.S. LANKA, DIST- HOJAI, ASSAM, PIN- 782446

2: SRI NABIN CHANDRA DAS
S/O- LATE DHANESWAR DAS
R/O- NO. 1 PIPAL PUKHURI LANKA TOWN
WARD NO. 5
P.O. AND P.S. LANKA
DIST- HOJAI
ASSAM
PIN- 78244

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DM DEPARTMENT, DISPUR, GUWAHATI-06

2: THE DISTRICT COMMISSIONER
HOJAI
SANKARDEV NAGAR
LAND ACQUISITION BRANCH
PIN- 782442

3: ADDL. DISTRICT COMMISSIONER
HOJAI
SANKARDEV NAGAR
LAND ACQUISITION BRANCH
PIN- 782442

4: THE CIRCLE OFFICER
LAND REVENUE CIRCLE
P.O. LUMDING

DISTRICT- NAGAON
PIN- 782447

5:THE GENERAL MANAGER
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011
ASSAM

6:THE DIVISIONAL RAILWAY MANAGER
LUMDING
N.F.RAILWAY
DIST.- NAGAON
PIN- 782447

7:PROJECT MANAGER
NAOLIN INFRASTRUCTURE PRIVATE LIMITED UMA HYDERABAD HOUSE
6-3-1090/1/
RAJ BHAVAN RD
3RD FLOOR
SOMAJIGUDA
HYDERABAD
TELANGANA
PIN- 50008

For the petitioner (s) : Mr. S. Choudhury, Advocate

Mr. G. J. Sarma, Advocate

For the respondent (s) : Ms. S. Baruah, Advocate

Mr. P. S. Lahkar, CGSC

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

29.08.2024

Heard Mr. S. Choudhury, the learned counsel appearing on behalf of the petitioners. Mr. P. S. Lahkar, the learned CGSC appears on behalf of the Railways and Ms. S. Baruah, the learned counsel appears on behalf of the District Administration.

2. The instant writ petition has been filed by the petitioners seeking direction upon the respondents not to carry out the construction of 132 KV transmission line over the plot of land of the petitioners covered by Dag No.396 of Patta No.3 of Village-No.1 Pipal Pukhuri under Mouza-Kaki, Lanka, Hojai, after completing acquisition procedure and with little damage as possible, i.e. erection of poles towards the boundary of the land and not in the middle of the land of the petitioners and pay full compensation in terms with Section 10(d) of the Indian Telegraph Act, 1885.

3. Mr. S. Choudhury, the learned counsel appearing on behalf of the petitioners submitted that the construction which the respondents, more particularly the respondent No.5 & 6 are undertaking would result in constructing in the middle of the land of the petitioners and thereby would render the land of the petitioners useless, and as such, appropriate direction should be passed.

4. This Court vide an order dated 07.08.2024 on an earlier occasion, directed the respondent authorities to file the affidavit and also passed an interim order to maintain status-quo as regards the land of the petitioners.

5. Pursuant thereto, an affidavit has been filed by the respondent No.5 & 6. In the said affidavit, it has been mentioned that the construction work has not been carried out at the middle of the petitioners' land. It has been stated that there is a 6 feet wide village road at the boundary of the petitioners' land which is used by the villagers and the construction work has been done (i.e. for four legs pylon) keeping vacant a distance of only 2 meters from the said village road and that too for safety purpose which is essential as the said towers would be used for electrification. It has also

been stated that apart from keeping vacant area for safety purpose, no land has been misused. To support the said statement, a foundation drawing of the location No.29/0 has been enclosed as Annexure-3. From a perusal of the said Annexure-3, it reveals that there is a boundary wall and thereafter there is the 6 feet village road. Further to the 6 feet road is the petitioners' land and an area of 8 lechas has been taken for the purpose of construction of the two towers which are in the area of 9.68 meters X 9.68 meters each.

6. This Court has further put a specific query upon the learned counsel appearing on behalf of the petitioners as to what is the area of the petitioners' land to which the learned counsel submitted that the area is 9 bighas. It is also seen that on 22.08.2024 when the instant writ petition was listed, this Court had directed the Circle Officer, Lanka Revenue Circle to submit a report as to whether the electrification is carried out in the middle of the petitioners' land.

7. Ms. S. Baruah, the learned counsel appearing on behalf of the respondent District Administration has placed before this Court an instruction dated 28.08.2024 which is kept on record and marked with the letter "X". From the said document, more particularly at paragraph No.6, the stand which has been taken by the respondent Nos.5 & 6 has been reiterated.

8. Under such circumstances, this Court is of the opinion that as the construction which prima-facie appears from the materials placed before this Court that the construction is not in the middle of the petitioners' land, the question of interfering with the said construction work does not arise. Be that as it may, this Court, however, observes that the view taken

herein is on the basis of the materials which have been placed. The loss which has been occasioned to the petitioners on account of construction of the towers and the transmission line running over their land can very well be agitated before the learned Court of the District Judge, Sankardev Nagar, Hojai by filing an application under Section 16 (3) of the Indian Telegraph Act, 1885, if the petitioners are aggrieved with the amount of compensation so awarded.

9. Accordingly, this Court while not interfering with the construction work carried out directs the respondent authorities to release the due compensation to the petitioners after submission of the necessary documents by the petitioners and proper verification. The same be done within 15 (fifteen) days from the date of submission of the documents by the petitioners. If the petitioners are aggrieved by the amount of compensation on account of the loss suffered, the petitioners would always be at liberty to approach the learned Court of the District Judge, Sankardev Nagar, Hojai within 45 (forty five) days from the date of the funds being disbursed to the petitioners.

10. In view of the above observations and directions, the instant writ petition stands disposed of.

110. The interim order passed earlier stands vacated.

JUDGE

Comparing Assistant