

GAHC010154022024



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

Case No. : WP(C)/3893/2024

JAYANTA LAKRA
SON OF LATE SAMMUEL LAKRA,
RESIDENT OF VILL- DEKACHANG,
P.O. AND P.S.- DOKMAKA,
DIST.- KARBI ANGLONG, ASSAM,
PIN- 782441.

VERSUS

THE UNION OF INDIA AND 3 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS,
GOVT. OF INDIA, NEW DELHI- 110001.

2:THE GENERAL MANAGER(PROJECT)
NHIDCL
PMU-JORHAT
4TH FLOOR
HOTEL JIRONI

BYE-PASS WEST
JORHAT
ASSAM

PIN- 785001.

3:THE JOINT SECRETARY
DEPARTMENT OF REVENUE (CALA)
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
PIN- 782460.

4:THE ARO
PHULONI REVENUE CIRCLE
PHULONI
KARBI ANGLONG
DIPHU

PIN- 782441

For the Petitioner(s)	: Mr. L. R. Mazumder, Advocate
For the Respondent(s)	: Mr. J. Chutia, Standing Counsel
Date of Hearing	: 09.08.2024
Date of Judgment	: 09.08.2024

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Heard Mr. L. R. Mazumder, the learned counsel appearing on behalf of the Petitioner and Ms. K. Phukan, the learned Standing counsel appearing on behalf of the Respondent No.1. I have also heard Ms. R. Bora, the learned Standing counsel appearing on behalf of the Respondent No.2 and Mr. J. Chutia, the learned Standing counsel appearing on behalf of the Respondent Nos. 3 and 4.

2. The Petitioner herein has approached this Court seeking a direction upon the Respondents to cause an enquiry and to include his land in the list of affected people and also to pay compensation as per law.

3. It is seen from a perusal of the writ petition that the petitioner claims that he is the owner of a plot of land bearing Dag No.554/748 included in Patta No.243 of village Dekachang under Mouza Duar Dikharu within Revenue Circle Phuloni in the District of Karbi Anglong Assam.

4. The assertion made by the Petitioner about the ownership over the said plot of land is merely on the basis of a kacha patta and there is no other document showing the Petitioner's right over the said plot of land. The Respondent Authorities for the purpose of widening/improvement of four land with paved shoulder have initiated an acquisition proceedings under the National Highways Act, 1956 (for short the Act of 1956) and in that regard a notification has been issued under Section 3A of the Act of 1956.

5. From a perusal of the said notification under Section 3A of the Act of 1956 which has been enclosed as Annexure-2, it is seen that the Petitioner's land have not been included within the purview of the said acquisition proceedings. It is the case of the petitioner that the Petitioner's brother's land which is covered by Dag No.554 included in P.P. No.80 at village Dekachang-I have been included in the said notification under Section 3A of the Act of 1956.

6. The said notification was issued sometime in the month of July, 2021. In the month of August, 2021, a communication was written by the Petitioner addressed to the Respondent No.2 through the ARO/ASO Phuloni Revenue Circle Officer. It is however not known as to whether the said document was at all received by the said Respondents and there is also no acknowledgement shown in the said document.

7. Before further proceeding, this Court however finds it very pertinent to take note of that the Petitioner while enclosing Annexure-5 which is a document written in Assamese have enclosed a translated copy at Page No.22 of the writ petition. It however, surprises this Court that the Petitioner while placing the typed copy did not incorporate the contents of the said application in the translated version which is very vital. It is seen that the said translated copy is certified to be true by the learned counsel, Mr. L. R. Mazumdar. On being asked,

the learned counsel for the Petitioner submitted that what was translated was the relevant portion. This Court however fails to understand the said submission taking into account that a relevant portion of a document, if placed before the Court can only be the relevant portion of the content of the document and not to whom it is addressed to and by whom it is addressed. Either it is a case where the Petitioner does not want the contents of the said document be perused by this Court or the Petitioner with an intention did not incorporate the contents of the document as it may go against the petitioner. This type of practice is strongly deprecated both on the part of the Petitioner and his counsel.

8. Be that as it may, after three years, the Petitioner has approached this Court. There is no reason explained in the petition as to why the Petitioner has approached this Court after three years. Under such circumstances, it is the opinion of this Court that the writ petition also suffers from delay and laches for which this Court ought not to exercise its discretion to entertain the writ petition.

9. On merits, it is seen that the Petitioner has also failed to show any document which would show that the Petitioner has right over the land in question and also to the fact that the Respondent Authority have encroached the Petitioner's land.

10. This Court also finds it very pertinent to take note of the submission of Mr. J. Chutia, the learned Standing counsel appearing on behalf of the Respondent Nos. 3 and 4 who submitted that only the notifications under Section 3A of the Act of 1956 had been enclosed but the notification under Section 3C and Section 3D of the Act of 1956 have also been issued in respect to the said acquisition proceedings which the Petitioner has neither produced nor has

made any mention in the writ petition.

11. In addition to that, the learning Standing counsel appearing on behalf of the Respondent Nos. 3 and 4 submitted that the land wherein the acquisition had been carried out as stated in the notification under Section 3A of the Act of 1956 is in respect to the village Dekachang -1 whereas the land which the Petitioner claims is in village Dekachang Non-K which is completely different. It has also been submitted that the land of the Petitioner have not been acquired.

12. Under such circumstances, this Court, on merits is of the opinion that when the Respondent Authorities did not find it suitable for acquisition of the land of the Petitioner taking into account the purpose for which the acquisition proceedings have been initiated, this Court cannot issue a writ directing the Respondents to include the land of the Petitioner.

13. In that view of the matter, this Court finds no merits in the instant petition for which the instant writ petition stands dismissed. However, in the facts of the instant case, though this Court deprecates and reprimands the conduct of the Petitioner and his counsel, this Court refrains from imposing any costs.

JUDGE

Comparing Assistant