

GAHC010158942024



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

Case No. : WP(C)/4015/2024

SAMIRAN DEY
SON OF LATE SUDHANYA KUMAR DEY,
A RESIDENT OF VILL.- KALINAGAR PART-III,
P.O.-KALINAGAR,
P.S.-PANCHGRAM, PIN- 788801,
DISTRICT- HAILAKANDI, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS,
TRANSPORT BHAWAN, 1, PARLIAMENT STREET,
NEW DELHI, PIN- 110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

REVENUE AND DISASTER MANAGEMENT DEPARTMENT

DISPUR
GUWAHATI- 781006
ASSAM.

3:NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
REPRESENTED BY THE EXECUTIVE DIRECTOR (P) CUM HIGHWAY
ADMINISTRATOR

REGIONAL OFFICE
GUWAHATI

2ND FLOOR
AGNISHANTI BUSINESS PARK

GNB ROAD
AMBARI
GUWAHATI
ASSAM

PIN- 781001.

4:THE DISTRICT COMMISSIONER
HAILAKANDI
PIN- 788151.

5:THE ADDITIONAL DISTRICT COMMISSIONER (REVENUE)-CUM-
COMPETENT AUTHORITY FOR LAND ACQUISITION
HAILAKANDI
PIN- 788151.

6:THE CIRCLE OFFICER
ALGAPUR REVENUE CIRCLE
ALGAPUR
DISTRICT- HAILAKANDI
PIN- 788801.

7:THE DEPUTY GENERAL MANAGER
NHIDCL
PMU- SILCHAR
SITE OFFICE

PESKAR LANE
SONAI ROAD

KANAKPUR PART I
SILCHAR

CACHAR
ASSAM
PIN- 788006

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

For the respondent (s) : Mr. N. Goswami, Govt. Advocate
Mr. R. K. Talukdar, Advocate
Ms. G. Hazarika, Advocate
Ms. K. Phukan, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

21.08.2024

Heard Mr. S. D. Purkayastha, the learned counsel appearing on behalf of the petitioner. Mr. N. Goswami, the learned counsel appears on behalf the District Administration; Mr. R. K. Talukdar, the learned counsel appears on behalf of the NHIDCL; Ms. K. Phukan, the learned counsel appears on behalf of the CGST and Ms. G. Hazarika, the learned counsel appears on behalf of the Revenue Department of the Government of Assam.

2. The grievance of the petitioner in the instant writ petition is that in the notification which was published in the English Daily, namely, Eastern Chronicle and Bengali Daily, namely, Jugashankha there was discrepancy in the area of land which has been said to have been acquired from the petitioner in as much as in the English Daily it was shown at 0.029 hectares whereas in the Bengali Daily it was shown at 0.0029 hectares. In that regard, the petitioner has approached the various authorities for the purpose of making necessary correction by issuance of corrigendum. However, as nothing was done, the petitioner has approached this Court.

3. This Court vide an order dated 12.08.2024 directed the learned Government Advocate who was representing the District Administration as well as the Competent Authority to provide instructions as regards the discrepancy in the two newspapers in so far as the notification under Section 3D of the National Highways Act, 1956 is concerned.

4. Today, Mr. N. Goswami, the learned counsel appearing on behalf of the District Administration submitted that in the Gazette Notification No.S.O.1386

(E) 15.03.2024, the quantum of land mentioned is 0.029 hectares against the name of the petitioner. This notification was rightly published in the English newspaper, viz. Eastern Chronicle on 23.03.2024. However, it is duly admitted that the quantum of land shown in the Bengali newspaper, viz. Jugashankha was 0.0029 hectares. It was mentioned that it was a printing error. It has also been mentioned that after the petitioner intimated the authorities, a communication was issued to the petitioner on 05.08.2024 by the Competent Authority clarifying that the land which has been acquired from the petitioner in terms of the notification under Section 3D of the Act of 1956 dated 15.03.2024 is 0.029 hectares and there was an inadvertent mistake in the newspaper, namely, Jugashankha published on 23.03.2024 which may be ignored. It is also mentioned that this aspect of the matter was also informed to the NHIDCL by another communication dated 09.07.2024. In addition to that, in the Bengali news daily 'Jugashankha' dated 18.08.2024, this corrigendum has also been published.

5. Taking into account the above, this Court is of the opinion that the land which has been acquired from the petitioner vide the Gazette Notification No.S.O.1386 (E) 15.03.2024 is the land admeasuring 0.029 hectares under Dag No.295.

6. Mr. S. D. Purkayastha, the learned counsel appearing on behalf of the petitioner further submits that although it has been notified that land measuring 0.029 hectares under Dag No.295 has been acquired from the petitioner, but the respondent authorities have made survey in respect to 0.0357 hectares. This Court is of the opinion that if the acquisition has been made only in respect of 0.029 hectares, the respondent authorities unless they take appropriate steps under the provisions of law, cannot take over the possession over a larger plot of land than what has been acquired. Under

such circumstances, this Court observes and directs the respondent authorities to take possession of the area of land admeasuring 0.029 hectares in terms with the notification under Section 3D of the Act of 1956 issued on 15.03.2024. It is however observed that the above observations and directions would not act as a bar to the concerned Respondent Authorities to acquire further land from the petitioner however subject to the procedure established by law.

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

8. The instructions so placed is kept on record and marked with the letter "X".

JUDGE

Comparing Assistant