

GAHC010163542020



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

Case No. : WP(C)/5068/2020

LILIMAI BARUAH AND 3 ORS
W/O. LT. SUREN CHANDRA BARUAH, R/O. BUWALGURI, P.O.
BOGOLIJAN, DIST. LAKHIMPUR, ASSAM.

2: MUKUNDRA NARAYAN BARUAH
S/O. LT. SUREN CHANDRA BARUAH
R/O. BUWALGURI
P.O. BOGOLIJAN
DIST. LAKHIMPUR
ASSAM.

3: PANKAJ BARUAH
S/O. LT. SUREN CHANDRA BARUAH
R/O. BUWALGURI
P.O. BOGOLIJAN
DIST. LAKHIMPUR ASSAM.

4: PARINITA BARUAH
D/O. LT. SUREN CHANDRA BARUAH
R/O. BUWALGURI P.O. BOGOLIJAN
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, LAND AND
REVENUE AND DISASTER MANAGEMENT DEPTT., DISPUR, GHY.-06.

2: THE DY. COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR (LAND ACQUISITION BRANCH)
ASSAM.

3:THE CIRCLE OFFICER
NORTH LAKHIMPUR REVENUE CIRCLE
NORTH LAKHIMPUR
ASSAM.

4:NATIONAL HIGHWAYS AUTHORITY OF INDIA
REP. BY THE SECRETARY
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
NEW DELHI

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 09.04.2024

Heard Mr. R. Ali, learned counsel for the petitioners and Mr. S. R. Baruah, learned Government Advocate, Assam for the respondent Nos. 2 & 3. Also heard Ms. P. R. Mahanta, learned counsel for the respondent No. 1 and Mr. C. Baruah, learned counsel for the respondent No. 4.

The prayer sought for in this writ petition is for a direction to the respondent authorities to release the excess land, measuring 3 Katha 14 Lechas covered by Dag No. 266 of Patta No. 86 under Nalkata Revenue Map, Mouza-Nakari, Lakhimpur, which has been allegedly occupied during the land acquisition process for construction of NL (Bypass) of NH-52 in LA Case No. 104/2009 and further direction to the respondent authorities to demarcate the land of the petitioners and make the payment of adequate compensation for acquiring additional land of the petitioners, measuring 3 Katha 14 Lechas covered by Dag No. 266 of Patta No. 86 under Nalkata Revenue Map, Mouza-Nakari.

The case of the petitioner is that he is the absolute owner of a plot of land, measuring 2 Bigha 4 Katha 14 Lecha covered by the aforesaid dag number. The land

was duly mutated in the name of the petitioner's husband and they possessed the said land without any disturbance from any corner. In the year 2009, the Deputy Commissioner issued a notification for acquiring the land for construction of NL (Bypass) of NH-52 in the North Lakhimpur district and accordingly 1 Bigha 1 Katha of land covered by Dag No. 266 of Patta No. 86 under Nalkata Revenue Map, Mouza-Nakari has been acquired from the said land for constructions of the said NL (bypass) through LA Case No. 104/2009. Thereafter, the Addl. Deputy Commissioner prepared the list of affected pattadars, which was published on 29.05.2014 for making payment of land compensation and zirat values. An amount of Rs.44,40,143/- has been paid to the petitioner's husband/father through cheque, bearing No. 851050 dated 02.05.2014 by the authorities against the land measuring 1 Bigha 1 Katha. After acquiring the land measuring 1 Bigha 1 Katha, out of 2 Bigha 4 Katha 14 Lecha, the area of the land ought to have remained 1 Bigha 3 Katha 14 Lecha, but no demarcation was made to ascertain the remaining land. The petitioners took measurement of the said land and found that there is shortage of 2 Katha of land in the field, which may be wrongly acquired along with 1 Bigha 1 Katha of land acquired by the Government.

The petitioner therefore submitted representation before the Deputy Commissioner vide letter dated 11.03.2019 for demarcation of the land. But no steps were taken by the authorities. In the meantime, the husband/father of the petitioners died on 09.09.2017 and after the death, the land was mutated in the name of the petitioners, but against only 1 Bigha. Thereafter, the petitioner submitted several representations for necessary steps to demarcate the land but no action was taken.

I have heard the submissions made at the Bar and perused the materials available on record.

It appears that the petitioner has represented before the Deputy Commissioner, North Lakhimpur Revenue Department by letter dated 11.03.2019, which has also not been attended to.

It further appears that the petitioners had filed an application before the Addl. Deputy Commissioner, praying for granting compensation against 2 Kathas of land, which was acquired in excess of the acquired land.

It further appears that on the basis of the aforesaid representation, the Addl. Deputy Commissioner, by its letter dated 06.12.2019 directed the Circle Officer, North Lakhimpur Revenue Circle to demarcate the land covered by Dag No. 266 of Patta No. 86 under Nalkata Revenue Map, Mouza-Nakari. However, it appears that despite of the aforesaid direction from the Addl. Deputy Commissioner, the land has not been demarcated and no action whatsoever has been taken till date.

In view of the aforesaid circumstances and for the ends of justice, this writ petition is disposed of with a direction to the Circle Officer, North Lakhimpur Revenue Circle to take necessary steps for demarcation of the petitioners' land as per the letter of the Addl. Deputy Commissioner dated 06.12.2019 in accordance with law.

Needless to clarify that the said exercise shall be completed within a period of six weeks from the date of receipt of a certified copy of this order.

This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant