

GAHC010180022023



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

Case No. : WP(C)/4750/2023

DRUNA GOWALA
S/O- LATE JAYNATH GOWALA,
R/O- VILLAGE NANTIAL PATHAR, NAGARMAHAL,
P.O AND P.S- SIVASAGAR, DIST- SIVASAGAR, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY , MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS, GOVT OF INDIA, NEW DELHI

2:THE GENERAL MANAGER (P)
PROJECT MONITORING UNIT
PMU

NATIONAL HIGHWAYS INFRASTRUCTURE DEVELOPMENT CORPORATION
LIMITED
JORHAT
ASSAM

3:THE STATE OF ASSAM
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND D.M DEPARTMENT
DISPUR
GUWAHATI-08

4:THE DEPUTY COMMISSIONER
SIVASAGAR
ASSAM

5:THE ADDL.DEPUTY COMMISSIONER
CUM COMPETENT AUTHORITY LAND ACQUISITION

SIVASAGAR
ASSAM

6:THE CIRCLE OFFICER
SIVASAGAR REVENUE CIRCLE
SIVASAGAR ASSA

Advocate for the Petitioner : MR. P J SAIKIA

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 15.07.2024

Heard Mr. P.J. Saikia, learned counsel for the petitioners. Also heard Mr. B. J. Talukdar, learned Government Advocate representing respondent Nos. 5 and 6; Ms. R. Bora, learned Standing Counsel, NHIDCL, Ms. G. Hazarika, learned counsel for respondent No.3 and Mr. P. Baruah, learned counsel appears on behalf of Mr. B. Deka, learned CGC.

2. The petitioner is before this Court praying for a direction to the respondents, more particularly, respondent Nos. 4 and 5, not to disburse the land compensation to any other person insofar as it relates to the land comprising of 0.019 hectares covered by dag number 83, patta number 42.

3. The grievance of the petitioner is that he is a co-pattadar of the land measuring 5 Bighas 3 Katha 15 Lechas covered by dag number 83, patta number 42, however, in the land acquisition case following acquisition of the said land, his portion of the land along with his name was not reflected. Subsequently, a separate proposal was put up and appropriate orders were passed thereon. He, therefore, submits that the share of land compensation in

respect of the land covered by dag number 83, patta number 42 of 0.019 hectors should not be released without ascertaining the share of compensation payable to the writ petitioner, who is also the co-pattadar of the said land.

4. Pursuant to notice being issued, affidavit was filed by respondent No.2, where at paragraph 3 there is an averment that the National Highways & Infrastructure Development Corporation Ltd. (NHIDCL) deposited the compensation amount as determined under Section 3 G of the NH Act, 1956 in the account of the concerned Competent Authority for Land Acquisition, namely, the respondent No.5.

5. Today when the matter is called up, the learned counsel for the petitioner submits that since the NHIDCL has already deposited the amount the competent authority, namely the respondent No.5 is now required to take necessary steps under the provisions of National Highway Act, 1956 to determine the compensation and release it to the owners/pattadars. He submits that where there is a claim of several persons in respect of the compensation amount steps as mandated under Section 3 H of the NH Act, 1956 should be undertaken by the Competent Authority.

6. Learned counsels for the parties have been heard. Pleadings on record have been carefully perused.

7. Under Section 3 H (3) of the NH Act, 1956, it is provided that where several persons claimed to be interested in the amount deposited under sub Section (1) of the said Section, competent authority shall determine the persons, who in its opinion are entitled to receive the amount payable to each of them. Under Section 3 H (4) of the NH Act, 1956 provides that if any dispute arises as to the apportionment of the amount or any part thereof, or to any person to whom the

same or any part thereof is payable, Competent Authority shall refer to dispute for a decision of the Principal Civil Court of original jurisdiction.

8. Having noticed the provisions of the NH Act, 1956, more particularly, under Section 3 H of the NH Act, 1956, this court is of the view that the writ petition need not be kept pending. The same, is accordingly, disposed off with a direction to the respondent No. 5, to examine the claims of the writ petitioner and pass appropriate orders in accordance with the provisions of Section 3 H of the NH Act, 1956. Any such order that is passed, copies thereof shall be furnished to the writ petitioner.

9. The entire exercise is directed to be completed within a period of 4 (four) weeks from the date of receipt of a certified copy of this order.

10. It is submitted by the learned counsel for the petitioner that the other co-pattadars have already filed an application before the Deputy Commissioner that they have already received their share of compensation and the share pertaining to the present writ petitioner should also be released.

11. The learned counsel for the respondent No.5 will take note of any such document that may have been filed before the Office of the Deputy Commissioner before passing the orders as directed by this Court.

12. Writ petition, is accordingly, disposed of.

JUDGE

Comparing Assistant