

GAHC010190892024



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

Case No. : WP(C)/4804/2024

JAMIR UDDIN BARBHUIYA
S/O LATE TURFAN ALI BARBHUIYA,
RESIDENT OF VILLAGE RONGPUR PART II, PO RONGPUR, DIST CACHAR,
ASSAM, 788009

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, ROAD
TRANSPORT AND HIGHWAYS DEPARTMENT, GOVT. OF INDIA, NEW DELHI
110001

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
REVENUE (SETTLEMENT) DEPARTMENT
DISPUR
GUWAHATI 06

3:THE DEPUTY GENERAL MANAGER (P)
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED
PMU
PESKAR LANE
SONAI ROAD
SILCHAR
788806

4:THE DISTRICT COMMISSIONER

CACHAR
ASSAM

5:THE ADDITIONAL DISTRICT COMMISSIONER

REVENUE AND LAND SETTLEMENT BRANCH
CACHAR
ASSAM

6:THE EXECUTIVE ENGINEER

PWD
BUILDING DIVISION
CACHAR
SILCHAR

7:THE CIRCLE OFFICER

SILCHAR REVENUE CIRCLE
DIST SILCHAR
ASSA

Advocate for the Petitioner(s) : Mr. J. I. Borbhuiya

Advocate for the respondent(s): Mr. R.K Talukdar, SC, NHIDC

Mr. S. Baruah, SC, CALA

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 20.09.2024

Heard Mr. J. I. Borbhuiya, the learned counsel appearing on behalf of the petitioner; Mr. S. Baruah, the learned Standing Counsel, CALA, appearing on behalf of the respondent Nos. 2,4,5 & 7 and Mr. R. K. Talukdar, the learned Standing Counsel, NHIDC appearing on behalf of the respondent No. 3.

2. Taking into account that the dispute involved in the instant writ petition, this Court is of the opinion that the instant writ petition can be disposed of at the motion stage itself.

3. It is the case of the petitioner that the petitioner is the owner of a plot of land measuring 6 kathas, 10 Chattaks, 13 Gondas covered by Dag No.7 of Patta No.3 Mouza - Rongpur Part- II, Pargona-Barakpar in the district of Cahar, Assam. It is the specific case of the petitioner that out of the said land 0.0335

hectares of land has been acquired under the National Highways Act of 1956 (for short 'Act of 1956'). It is the further case of the petitioner that in the said land the petitioner had constructed a building which has 4th floor. However, while computing the compensation the Competent Authority has paid an inadequate compensation without taking into account Section 3 (G)(7) of the National Highways Act, 1956 read with section 26 to 28 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. The learned counsel appearing on behalf of the petitioner further submitted that the petitioner has submitted a representation also to the Competent Authority on 24.07.2024 for making a proper assessment of the land compensation as well as the Zirat compensation. However the same has not been taken into account. It is under such circumstances, the petitioner has therefore, approach this Court by filing the instant writ petition.

5. This Court having taken note of the provisions of the Act of 1956 is of the opinion that if the petitioner is aggrieved with the inadequacy of the compensation, the petitioner has the option of approaching the Competent Authority seeking a reference to the Arbitrator in terms with Section 3 (G)(5) of the Act of 1956. Further to that once the determination has already been done by the Competent Authority, the same can only be modified or interfered with except in terms with Section 3 (G)(5) of the Act of 1956.

6. Under such circumstances, this Court disposes of the instant writ petition thereby granting the liberty to the petitioner to submit a fresh application before the Competent Authority whereby the petitioner may seek a reference to the Arbitrator in terms with Section 3(G) (5) of the Act of 1956.

7. Mr. J. I. Borbhuiya, the learned counsel appearing on behalf of the petitioner submits that the petitioner shall carry out the said exercise forthwith and submit before the Competent Authority.

8. This Court directs the Competent Authority is the respondent No. 5, that in the event the petitioner submits the application in terms with Section 3 (G)(5) of the Act of 1956, the same be referred to the Arbitrator, who has been duly appointed by the Central Government forthwith and not later than 20 days from the date of submission of such application.

JUDGE

Comparing Assistant