

GAHC010206952021



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

**Case No. : WP(C)/6564/2021**

M/S KESHARI INDUSTRIES  
A PARTNERSHIP FIRM DULY REGISTERED UNDER THE INDIAN  
PARTNERSHIP ACT, 1932 HAVING ITS PRINCIPAL PLACE OF BUSINESS AT  
ABHOYPUR, NORTH GUWAHATI, AMINGAON, GUWAHATI 781031, DIST  
KAMRUP, ASSAM, DULY REPRESENTED BY ONE OF ITS PARTNER  
NAMELY SRI PAWAN KUMAR SONI, AGE ABOUT 50 YEARS, S/O LATE  
MANIK CHAND SONI, RESIDENT OF ASTHA PRESTIGE, FLAT NO. C 803, N S  
ROAD, FATASIL AMBARI, NEAR OLD GLASS FACTORY, GUWAHATI 781009,  
KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS  
DULY REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVT. OF ASSAM. REVENUE AND DM DEPARTMENT, DISPUR GUWAHATI  
781006, KAMRUP M ASSAM

2:THE DEPUTY COMMISSIONER CUM COLLECTOR  
LAND ACQUISITION BRANCH  
KAMRUP. AMINGAON  
781031  
ASSAM

3:THE CIRCLE OFFICER

NORTH GUWAHATI REVENUE CIRCLE  
LAND ACQUISITION BRANCH  
KAMRUP 781031  
ASSAM

4:THE GENERAL MANAGER

DISTRICT INDUSTRIES AND COMMERCE CENTRE  
KAMRUP (R) MIRZA  
ASSAM 78110

For the Petitioner(s) : Mr. G. Bordoloi, Advocate  
For the Respondent(s) : Mr. D. Mozumder, Addl. AG  
: Ms. D. Devi, Advocate  
: Mr. A. Kalita, Advocate

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 25.09.2024**

Heard Mr. G. Bordoloi, the learned counsel appearing on behalf of the Petitioner and Mr. D. Mozumder, the learned Additional Advocate General assisted by Ms. D. Devi, the learned counsel appearing on behalf of the Respondent Nos. 1, 2 and 3. I have also heard Mr. A. Kalita, the learned Sanding counsel for the Respondent No.4.

2. The Petitioner herein has filed the instant writ petition being aggrieved by the non-payment of the additional compensation as per the re-assessed valuation report dated 04.01.2020 and the non-consideration of the representation submitted on 15.09.2021 to the Deputy Commissioner, Kamrup (Rural).

3. This Court had issued notice on 20.09.2024 thereby sought for instructions as to whether there is any Gazette Notification in respect to the notification under Section 6 of the Assam Land (Requisition and Acquisition) Act, 1964 (for short 'the act of 1964') and further as to whether there is an award passed and if so when.

4. Pursuant to the said directions passed by this Court, Mr. D. Mozumder, the learned Additional Advocate General has placed before this Court an instruction issued by the Additional District Commissioner whereby it was mentioned that Section 6 of the notification was under the Act of 1964 was published on 29.09.2018.

5. Taking into account the above, it would be apparent that in view of the provisions of Section 6(2) of the Act of 1964, the land vested upon the Government. It is also seen that the award was passed on 12.05.2020 and an amount of Rs.14,47,303/- was paid to one Smti. Sarita Soni for an area admeasuring 2 Kathas 16.66 Lechas. In addition to that, it is also seen that an amount of Rs.1,64,58,314/- was paid to the petitioner.

6. It is the case of the Petitioner that the said amount so paid is not in consonance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and more particularly Section 26 to 30 of the said Act of 2013. It is also the case of the Petitioner that even the Secretary, Revenue and Disaster Management Department of the Government of Assam had in its order dated 04.01.2020 held that the Petitioner would be entitled to higher compensation and as such the Petitioner had requested the Respondent Authorities vide the communication dated 15.09.2021 to re-assess the compensation and pay the additional compensation.

7. Be that as it may, the fact remains that an award had already been passed. In terms with Section 12 of the Act of 1964, any person who is aggrieved as regards the inadequacy of the compensation can seek a reference to the Collector for the purpose of referring the matter to the

Court for determining the compensation as entitled under law.

8. This Court also of the opinion that once award is passed, the said award becomes a conclusive evidence between the Collector as well as the persons interested and the same cannot be tinkered with unless and until the same is done in accordance with the provisions of the Act of 1964. Under such circumstances, it is the further opinion of this Court that this Court under Article 226 of the Constitution ought not to exercise its extraordinary jurisdiction in the present facts but for the ends of justice ought to grant liberty to the Petitioner to approach the Collector i.e. the District Commissioner, Kamrup (R), Amingaon by submitting an application seeking a reference to the Court, if the petitioner is aggrieved by the inadequacy of the compensation.

9. Accordingly, the instant petition therefore stands disposed of with the following observations and directions:

(i) The award so passed in L.A. Case No.17/2018 is conclusive insofar as between the Petitioner as well as the Collector in respect to the acquisition of the property of the Petitioner.

(ii) The Petitioner can avail remedies against the said award by submitting an application within 30 days from today before the Collector/District Commissioner, Kamrup (R), Amingaon seeking reference for re-determination of the compensation.

(iii) Upon such application being filed, the Collector/District Commissioner, Kamrup (R), Amingaon shall forthwith and not later than 15 days therefrom make a reference to the Court of the learned District Judge, Kamrup (R), Amingaon in terms with Section 19 of the Land

Acquisition Act, 1894.

(iv) The Petitioner herein would be at liberty to place all such materials which have been placed before this Court as well as other materials at the time of submission of its statement of claim seeking enhancement of the compensation.

10. The instructions so placed by Mr. D. Mozumder, the learned Additional Advocate General is kept on record and marked with the letter "X".

**JUDGE**

**Comparing Assistant**