

GAHC010208112023



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

Case No. : WP(C)/5368/2023

KHAGARU BAISHYA AND 11 ORS
S/O- LATE GANGA RAM BAISHYA

2: NAREN BAISHYA
S/O- LATE JANMI BAISHYA

3: SUREN BAISHYA
S/O- JANMI BAISHYA

4: LAKHI BAISHYA
S/O- JANMI BAISHYA

5: GHANASHYAM BAISHYA
S/O- JANMI BAISHYA
SL NO. 1 TO 5 ARE R/O- VILL BONGSHAR

P.O- BONGSHAR

P.S- SUALKUCHI

DIST- KAMRUP
ASSAM

6: PURNIMA BAISHYA
D/O- JANMI BAISHYA

7: RADHE BAISHYA
D/O- JANMI BAISHYA

8: DAIBAKI BAISHYA
D/O- JANMI BAISHYA

VILL- DOLIBARI

P.O- DADARA
P.S - HAJO
DIST- KAMRUP
ASSAM

9: DEBARAM BAISHYA
S/O- LATE ANADHOWA BAISHYA

10: DIMBESWAR BAISHYA
S/O- LATE ANADHOWA BAISHYA

11: GAUTAM BAISHYA
S/O- LATE ANADHOWA BAISHYA

SL NO. 9 TO 11 ARE
R/O- VILLAGE BONGSHAR

P.O- BONGSHAR

P.S- SUALKUCHI

DIST- KAMRUP
ASSAM

12: GOLAPI BAISHYA
D/O- LATE ANADHOWA BAISHYA

SL NO. 6
7 AND 12 ARE R/O-SUALKUCHI
P.O AND P.S- SUALKUCHI

DIST- KAMRUP
ASSAM

PIN-78110

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI-06

2:THE COLLECTOR CUM DEPUTY COMMISSIONER
KAMRUP
AMINGAON
ASAM
KAMRUP

AMINGAON
ASSAM

3:THE CIRCLE OFFICER
HAJO REVENUE CIRCLE
HAJO KAMRUP
ASSAM

4:MAMAT BAISHYA
S/O- SOBHARAM BAISHYA

R/O- VILL. AND P.O- BONGSAR

P.S- SUALKUCHI
DIST- KAMRUP
ASSAM
PIN-78110

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

19.04.2024

Heard Shri R. Ali, learned counsel for the petitioners. Also heard Shri HK Sarma, learned counsel for the respondent no. 4. Shri S. Baruah, learned State Counsel as well as Ms. N. Bordoloi, learned Standing Counsel, Revenue Department are also present.

2. Considering the subject matter and also the fact that affidavit-in-opposition have been exchanged, this writ petition is taken up for disposal at the admission stage.

3. The facts projected is that an acquisition proceeding was initiated for a plot of land measuring 1 bigha and 15 lecha covered by Dag No. 375 in KP Patta

No. 292 and another plot measuring 4 lecha covered by Dag No. 515 in KP Patta No. 292 for construction of four lane Palashbari – Sualkuchi Bridge. In this connection, a notification was issued on 08.06.2022 which was subsequently published in the Gazette on 28.06.2022. In the said notification, the aforesaid land is mentioned in Sl. Nos. 22 and 23.

4. Thereafter, vide the notice dated 30.01.2023 the award was notified amounting to Rs.92,69,567.12/- for the first plot of land and Rs.3,22,419.72/- for the second plot of land and the petitioners were directed to furnish the relevant documents before the Circle Officer, Hajo for receiving the compensation. It is the contention of the petitioners that all such documents were furnished. However, it appears that the respondent no. 4 has filed an application on 08.08.2023 before the Circle Officer informing pendency of a title suit and on the said complaint, the disbursement to the petitioners have been stopped.

5. Shri Ali, learned counsel for the petitioners has submitted that mere pendency of a title suit not a reason to deny the compensation for which the petitioners are entitled to. It is also submitted that there is no provision in law for denying such disbursement in absence of any order of injunction.

6. Shr HK Sarma, learned counsel for the respondent no. 4 has however submitted that title of the land in question is yet to be adjudicated and unless such process of adjudication is completed, any disbursement made would cause prejudice to his client. It is also submitted that there is merits in the suit which is likely to succeed. It is further submitted that the interest of justice would demand that the disbursement process be kept in abeyance till the suit is disposed of.

7. Both Shri S. Baruah, learned State Counsel as well as Ms. N. Bordoloi, learned State Counsel, Revenue Department submit that the dispute is between the petitioners and the respondent no. 4 and they would not have much role in the adjudication of the present writ petition.

8. The discussions, as recorded above, would lead to a conclusion that process of land acquisition had culminated into notification of the Award and also issuance of a notice dated 30.01.2023 requiring the petitioners to submit the required documents for receipt of the compensation amount. Apart from the aspect that there is a mechanism for redressal of issues regarding apportionment of the compensation between the persons who claimed any share of such compensation, in the instant case, the respondent no. 4 has admittedly filed a Title Suit against the petitioners. However, in the said Title Suit, there is no order of any injunction restraining such disbursement. The matter would have been different if the aforesaid action of non-disbursal was based on any injunction order.

9. There being no provision of law for restriction for such disbursement, the ground of mere pendency of a Title Suit cannot be held to be a valid ground for refusal for such disbursement.

10. In view of the above, the instant writ petition stands allowed by directing the Deputy Commissioner, Amingaon to disburse the amount in question to the petitioners on being properly identified. The said process to be completed expeditiously and in any case within 2(two) months from the date of receipt of a certified copy of this order.

11. It is needless to state that such disbursement may be the subject matter of the final outcome of the Title Suit.

12. The writ petition stands disposed of.

JUDGE

Comparing Assistant