

GAHC010224322019



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

Case No. : WP(C)/6948/2019

CHIRUKANDI JAMA MASJID
VILL. CHIRUKANDI, P.O. SILCHAR, DIST. CACHAR REP. BY SRI SAMSUR
HOHMAN CHOUDHURY, S/O. SAFIQR ROHMAN CHOUDHURY, R/O.
SILCHAR TOWN, MOINA MIA LANE, HOSPITAL ROAD, SILCHAR-01, P.O.
SILCHAR, P.S. SILCHAR SADAR, DIST. CACHAR, ASSAM. (A LOWFULLY
CONSTITUTED ATTORNEY OF THE MUTTAWALI OF THE CHIRUKANDI
JAME MASJID)

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE AND
D. M. DEPTT., DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
PUBLIC WORKS DEPTT (PWD) DISPUR
GUWAHATI-06.

3:THE CHIEF ENGINEER

PWD (ROADS)
CHANDMARI
GUWAHATI-03.

4:THE DY. COMMISSIONER

CACHAR
SILCHAR
ASSAM.

5:THE COLLECTOR

CACHAR
SILCHAR
ASSAM.

6:THE LAND ACQUISITION OFFICER

CACHAR
SILCHAR.

7:THE EXECUTIVE ENGINEER

PWD (ROADS)
CACHAR
SILCHAR

For the Petitioner(s) : Mr. S Bora, Advocate

For the Respondent(s) : Mr. A. Bhattacharjee, SC, Revenue
Ms. S. Baruah, Govt. Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 13.11.2024

Heard Mr. S. Bora, the learned counsel appearing on behalf of the petitioner. Mr. A. Bhattacharjee, the learned counsel appears on behalf of the Revenue Department and Ms. S. Baruah, the learned Govt. Advocate appears on behalf of the District Administration.

2. The petitioner herein has assailed the award dated 08.10.2015, in L.A. Case No. 5/64-65 (Old), 2/2008-09 (New) and has also sought for a direction for directing the Respondent Authorities to recompute the compensation as per The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013').

3. This Court has duly taken note of the provision of Section 24 of the Act of 2013, and more particularly, Sub-Section 1(b) which stipulates that if a

proceeding has been initiated under the Act of 1894 and no award has been passed till coming into effect of the Act of 2013 i.e. till 31.12.2013, the compensation has to be paid in terms with Section 26 to 30 of the Act of 2013.

4. In the instant case, from the materials on record and more particularly, the communication dated 05.11.2015, issued by the Deputy Secretary to the Government of Assam, Revenue and Disaster Management Department, it is seen that the Deputy Commissioner, Cachar, Silchar, Assam was accorded the approval by the appropriate Government only on 05.11.2015, which is much after 01.01.2014. It is thereupon the award has been filed in terms with Section 12 of the Act of Land Acquisition Act of 1894 (for short ' the Act of 1894'). Under such circumstances, applying the provision of Section 24 1(b) of the Act of 2013, the petitioner herein would be therefore entitled to compensation in terms with the provisions of Section 26 to 30 of the Act of 2013.

5. This Court further takes note of the judgment of Supreme Court in the case of ***Indore Development Authority Vs. Manahorlal & Others reported in (2020) 8 SCC 129*** wherein the Constitution Bench of the Supreme Court observed that once the award has been passed and the possession has been taken the land vest upon the State. Under such circumstances, the question, therefore, does not arise of setting aside the award as has been prayed in the instant proceedings.

6. It was however observed by the Constitution Bench of the Supreme Court in the said judgment that in view of Section 24, the person concerned would be entitled to compensation in terms with the Act of 2013.

7. Taking into account the judgment of the Supreme Court in the case of ***Indore Development Authority (supra)*** and it being a declaration of law

within the meaning of Article 141 of the Constitution, this Court therefore directs the Respondent Authorities, more particularly, the Deputy Commissioner, Cachar, Silchar, Assam to recompute the compensation in terms with the provisions of the Act of 2013, more particularly, Section 26 to 30 and thereupon make the award and place it before the Revenue Department of the Government of Assam for its approval.

8. The Revenue Department of the Government of Assam is further directed to grant necessary approval and upon such approval the award be filed in the Office of the Deputy Commissioner, Cachar, Silchar, Assam.

9. In addition to that, this Court taking into account the provisions of Section 31 of the Act of 1894, further directs the Deputy Commissioner, Cachar, Silchar, Assam to disburse the said amount to the petitioner.

10. It is further observed that in the circumstances, there is a delay in the disbursal and taking into account that the possession has been taken, the petitioner would be entitled to interest in terms with Section 34 of the Act of 1894, till such disbursal.

11. With the above observations, the instant writ petition stands disposed of.

12. This Court directs the Respondent Authorities and the District Collector as directed herein above to complete the entire exercise within a period of 3(three) months from the date a certified copy of this order is submitted to the Deputy Commissioner, Cachar, Silchar, Assam.

JUDGE

Comparing Assistant