

GAHC010243452024



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

Case No. : WP(C)/6073/2024

NASIM AHMED BARLASKAR AND ANR
S/O- LATE SAFIQUE UDDIN BARLASKAR, PERMANENT RESIDENT OF
BAHADURPUR, P.O. RONGPUR, P.S. SILCHAR, DIST.- CACHAR, ASSAM

2: NAFIZ AHMED BARLASKAR
S/O- LATE SAFIQUE UDDIN BARLASKAR
PERMANENT RESIDENT OF BAHADURPUR
P.O. RONGPUR
P.S. SILCHAR
DIST.- CACHAR
ASSA

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY MINISTRY OF ROAD TRANSPORT
HIGHWAY, GOVERNMENT OF INDIA, TRANSPORT BHAWAN, 1
PARLIAMENT STREET, NEW DELHI-01

2: THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY
GOVT. OF ASSAM
DISPUR
GUWAHATI-6

3: THE CHAIRMAN
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT LTD
(NHIDCL)
3RD FLOOR
PTI BUILDING
4 PARLIAMENT STREET
NEW DELHI-01

4: THE COMMISSIONER AND SECRETARY

TO THE GOVT OF ASSAM
DEPARTMENT OF REVENUE
DISPUR
GUWAHATI-6

5:THE GENERAL MANAGER (P)
PMU/SILCHAR
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD (NHIDCL)
PASKER LANE
SONAI ROAD
KANAKPUR PART-I
SILCHAR- 788006

6:THE DISTRICT COLLECTOR/DISTRICT COMMISSIONER
CACHAR
SILCHAR
ASSAM
PIN- 788001

7:THE ADDITIONAL DISTRICT COMMISSIONER CUM COMPETENT
AUTHORITY
OF LAND ACQUISITION
NHIDCL
SILCHAR
CACHAR- 788001

8:THE EXECUTIVE ENGINEER
PWD
LAKHIPUR
BARKHOLA AND KATIGORAH TERRITORIAL BUILDING DIVISION
SILCHAR
CACHAR
ASSA

Advocate for the Petitioner : MR. K N CHOUDHURY, MR. T SK,MR. I ALAM

Advocate for the Respondent : GA, ASSAM, SC, REVENUE,SC, NHIDC,SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

26.11.2024

Heard Mr. K.N. Choudhury, learned Senior counsel assisted by Mr. I Alam, learned counsel for the petitioner. Also heard Mr. C. Baruah, learned CGC for the respondents No. 1, 3 & 5 and Mr. S Baruah, learned Government Advocate for the State.

This writ petition is filed putting to challenge the notice dated 12.11.2024 asking the petitioner to vacate the acquired land within a period of three days. The land of the petitioner was acquired for the purposes of constructions of National Highway. The petitioner is running his business of a vehicle distributor from a plot of land and the shop premises standing on that plot of land which is acquired. The petitioner has not denied that the compensation amount has been paid which however is not accepted and he has resorted to the remedies prescribed under the National Highway Act.

The learned counsel for the petitioner submits that unless the compensation is accepted, it cannot be said that the land stood vested and they should be asked to vacate without the decision of the competent authority as prescribed under the provisions of the National Highway Act.

On the other hand respondents counsel strongly oppose the prayer made. It is submitted that sufficient time has been granted to the petitioner to vacate the premises but he has shown not complied with the notices issued by the authorities and thereby the project has been hampered resulting in a situation that the project may not be completed within the time prescribed.

When the matter was listed on 19.11.2024, the counsel for the respondents

were permitted to obtain instructions in the matter and status quo order was granted till the next date fixed.

Today when the matter is listed, the learned counsel for the respondents submit that there is no question of accepting the request made by the petitioner in view of the fact that the proceedings have been initiated and the land stood vested under Section 3 of the National Highway Act, 1956 and if the petitioner is not willing to accept the compensation awarded, the remedies available under the provisions of the Act are sufficient to ameliorate his grievances.

The learned Government Counsel has placed before the Court a copy of the instructions where it is seen that the project is a part of the "Bharat Mala Pariyojna" which is a time bound project of the Ministry of Road, Transport and Highways, Government of India. It is also submitted that if the prayer made in the writ petition for grant of three months time to shift their establishment is allowed, then it will affect the entire working season as from October to March is the working season and if three months time is granted then the rainy or the monsoon season will slowly settle in making it difficult to work and thereby the time frames prescribed for the completion of the project may no longer be applicable. In the communication before the Court, it is also seen that the deadlines have been fixed as 31.12.2024 for the ongoing land acquisition process.

From the instructions placed before the Court and upon examination of the pleadings on record, it is evident that the process of land acquisition is underway and it is not a case that the establishment of the petitioner is the only structure standing in the assigned plot of land which has not been vacated or handed over to the respondent authorities for completion of their project for constructions of the National Highway.

Considering the various aspects in the matter and also taking note of the urgency expressed by the respondent authority, this Court being a Court of equity, considers it appropriate to direct that the petitioner should take all steps to handover the property in question by shifting to the new place identified, as expeditiously as possible but not later than 28.12.2024. It is made clear that no further extension in respect of the petitioner will be granted.

The petitioner will endeavor to hand over the establishment if possible well prior to the date fixed by this Court.

The writ petition accordingly stands disposed of.

Interim order passed earlier will continue till 28.12.2024.

JUDGE

Comparing Assistant