

GAHC010249092023



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

Case No. : WP(C)/6620/2023

MONUJ HASNU @ MANOJ HASNU
S/O LT. DEKARAM HASNU R/O AMOLAPATY DIPHU 782460 P.O. AND PS
DIPHU DIST. KARBI ANGLONG ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM, REVENUE
AND DISASTER MANAGEMENT DEPARTMENT, ASSAM SECRETARIAT,
DISPUR, GUWAHATI-781006.

2:THE SECRETARY
TO THE REVENUE DEPTT KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU 782460 KARBI ANGLONG ASSAM

3:THE JOINT SECRETARY
REVENUE DEPTT BEING THE COMPETENT AUTHORITY FOR LAND
ACQUISITION KARBI ANGLONG AUTONOMOUS COUNCIL DIPHU 782460
KARBI ANGLONG ASSAM

4:THE ASSISTANT REVENUE OFFICER
DIPHU REVENUE CIRCLE KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU 782460 KARBI ANGLONG ASSAM

5:THE GENERAL MANAGER
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD (NHIDCL)

DIPHU
PIN- 782460 KARBI ANGLONG ASSAM

6:THE DIVISIONAL FOREST OFFICER

KARBI ANGLONG EAST DIVISION DIPHU 782460 KARBI ANGLONG
AUTONOMOUS COUNCIL ASSAM

7:THE SUPERINTENDENT OF POLICE
KARBI ANGLONG DIPHU ASSA

Advocate for the Petitioner : MR. M P CHOUDHURY

Advocate for the Respondent : SC, K A A C

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 12-02-2024

Heard Mr. M.P. Choudhury, learned counsel for the petitioner; Ms. N. Bordoloi, learned Standing Counsel, Revenue and Disaster Management Department for the respondent no. 1; Mr. J. Chutia, learned Standing Counsel, KAAC for the respondent nos. 2, 3, 4 & 6; Ms. Tinglung, learned counsel appearing on behalf of Mr. R.K. Talukdar, learned Standing Counsel, NHIDCL for the respondent no. 5; and Mr. J. Handique, learned Junior Government Advocate, Assam for the respondent no. 7.

2. The petitioner has approached this writ petition with a grievance that a land acquisition process under the provision of National Highways Act, 1956 is being undertaken for the purpose of building [widening/four-laning, etc.], maintenance, management and operation of National Highway no. 29 and during the said process of land acquisition, his periodic patta land has been converted to lands with different Dag nos. within the forest area.

3. The petitioner has claimed that the petitioner was allotted 20 Bighas of land at Village – Mohendijua NC by the respondent KAAC by an Order dated

15.06.2011. Subsequently, a Periodic Patta no. 81 was issued in favour of the petitioner on 30.12.2019 stating that the plot of land measuring 20 Bighas, is covered by Dag no. 415 and Periodic Patta no. 81, which is located at village – Mohendijua NC, Mouza – Borjan no. 3, District – Karbi Anglong. Accordingly, the name of the petitioner stood reflected in the concerned revenue records like Jamabandi [Records of Rights] and Chitha.

4. By a Notification no. S.O.5192[E] dated 14.12.2021 issued under sub-section [1] of Section 3A of the National Highways Act, 1956 [‘the Act, 1956’, for short], the Ministry of Road Transport and Highways, Government of India notified that the plots of land, described therein, would be required for building [widening/two lane with paved shoulder/four laning, etc.] maintenance, management and operation of NH-29 in the stretch of land from Km. 113+830 to Km. 145+712 [Package-6] [Karbi Anglong Autonomous Council Department of Revenue, Diphu] in the district of Karbi Anglong [‘the NH Project’, for short]. The plots of land, covered by Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696, situate at Village - Mohendijua Block no. 4 were included amongst the plots of land sought to be acquired by the Notification dated 14.12.2021 issued under Section 3A[1] of the National Highways Act, 1956. After issuance of the said Notification, the petitioner made correspondences with the respondent authorities to know as to whether his periodic patta land, covered by Dag no. 418 and Periodic Patta no. 81, situate at Village – Mohendijua NC was included within the Notification dated 14.12.2021 or not. The Notification under Section 3D[1] of the 1956 Act came to be issued on 30.03.2022 declaring that the plot of lands specified in the Schedule to the said Notification would be acquired for the purpose of the NH Project. In the said Notification dated 30.03.2022, there was no reflection of the plot of land, covered by Dag no. 415 and Periodic Patta

no. 81, which is stated to have belonged to the petitioner. It was at that point of time, the petitioner apprehending that his plot of land, covered by Dag no. 415 and Periodic Patta no. 81, was converted to Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696, approached this Court by preferring a writ petition, W.P.[C] no. 4191/2022. The said writ petition, after hearing the parties, was disposed of by an Order dated 24.06.2022 at the motion stage by granting liberty to the petitioner to submit a detail representation before the respondent no. 3 therein, that is, the Joint Secretary, Revenue, Karbi Anglong Autonomous Council-cum-Competent Authority Land Acquisition. It was further observed that if such representation was submitted by the petitioner before the respondent no. 3, the same should be disposed of by a speaking order after carrying out proper spot verification and upon due consultation of the relevant revenue records.

5. The petitioner has stated that he had accordingly submitted a representation before the concerned authority, as directed, on 30.06.2022 and the said representation came to be disposed of by the Speaking Order dated 21.06.2023 by the Joint Secretary, Revenue, Karbi Anglong Autonomous Council-cum-Competent Authority Land Acquisition.

6. From the contents of the Speaking Order dated 21.06.2023, it is noticed that on submission of the representation by the petitioner, a case, LACC/[PAR-LAH] Case no. 12/2022 was registered and notices were issued to the petitioner and the Assistant Settlement Officer, Diphu Revenue Circle. It further transpires that the Assistant Settlement Officer, Diphu Revenue Circle submitted a report during the course of the said proceeding. The Joint Secretary, Revenue, Karbi Anglong Autonomous Council [KAAC] after perusal of the said enquiry report and other revenue records, had observed that the plot of land, measuring 20

Bighas, covered by Dag no. 415, Village – Mohendijua NC was mutated in the name of the petitioner on 18.07.2011 in pursuance of the allotment order dated 15.06.2011. In respect of the plots of land, covered by Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696, the said authority had observed that those plots of land are located at Village – Mohendijua Block no. 4. Such observation was made on the basis of a Joint Verification Report submitted by the officials of the Revenue Department and the Forest Department of the KAAC before him on 02.06.2023. It has been recorded in the Speaking Order dated 21.06.2023 that [i] the plots of land, covered by Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696 of Village - Mohendijua Block no. 4 fall within Jamuna District Council Reserve Forest [DCRF] and as per the revenue records, those dag nos. are recorded as forest land; and [ii] the plot of land covered by Dag no. 415 of Village - Mohendijua NC is not included in the land acquisition plan prepared jointly by the NHIDCL, Revenue Department, KAAC and the DPR consultant of the NHIDCL. From the Speaking Order, it is further reflected that as on date, neither the plots of land, covered by Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696, situate at Village - Mohendijua Block no. 4 nor the plot of land, covered by Dag no. 415, of Village - Mohendijua NC is under any land acquisition process for the NH Project.

7. From the above discussion, the only issue which requires determination on the basis of a fact finding enquiry is that whether plots of land, Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696, situate at Mohendijua Block no. 4 and the plot of land, covered by Dag no. 415 and Periodic Patta no. 81, which is located at village – Mohendijua NC, are one or different. It is apprehended by the petitioner that his plot of land covered by Dag no. 415 and Periodic Patta no. 81, located at Village – Mohendijua NC has been converted to Dag no. 693,

Dag no. 694, Dag no. 695 and Dag no. 696.

8. This Court is of the considered view that the Joint Secretary, Revenue, KAAC is in the best position to examine and decide the said issue on the basis of a fact finding enquiry, conducted on the basis of the revenue records available with the respondent KAAC and the documents to be submitted by the petitioner in the course of such enquiry. In such view of the matter, this Court deems it appropriate to dispose of the writ petition granting liberty to the petitioner to submit a detail representation along with all the supporting documents available at his disposal before the Joint Secretary, Revenue, KAAC within a period of 15 days from today and after such representation is submitted, the Joint Secretary, Revenue, KAAC shall examine the representation and the issues, *firstly*, whether [i] the plots of land, covered by Dag no. 693, Dag no. 694, Dag no. 695 & Dag no. 696 situate at Mohendijua Block no. 4 and [ii] the plot of land, covered by Dag no. 415 and Periodic Patta no. 81, located at village – Mohendijua NC; are one or different and, *secondly*, whether those two plots of land are located at different places or not. In the course of such enquiry, the petitioner should be afforded personal hearing and liberty to file all supporting documents, available at his disposal, on the subject-matter. The petitioner shall also be given the liberty to peruse the original revenue records in presence of officials of Karbi Anglong Autonomous Council. It is further observed that the fact finding enquiry shall be completed by passing a speaking order, as expeditiously as possible preferably within a period of 45 days from the date of submission of the representation. In order to facilitate expeditious consideration of such representation, the petitioner shall appear before the office of the Joint Secretary, Revenue, KAAC at 10-30 a.m. on 18.03.2024. If the petitioner is found himself aggrieved by the speaking order, the petitioner will be at liberty to

avail the appropriate remedy as permissible under the law.

9. This order disposes of the writ petition. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant