

GAHC010272802019



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

Case No. : WP(C)/8219/2019

M/S. MAHESHWARI INDUSTRIES
WEST JALUKBARI NEAR SURVEY SCHOOL, GUWAHATI-14, REP .BY ONE
OF ITS CO PROPRIETOR/PARTNER, SRI MAHESH KUMAR MAHESHWARI,
GUWAHATI-14, ASSAM, MOBILE NO. 9435190334

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP.BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPTT. OF REVENUE, DISPUR, GUWAHATI-781006

2:THE DEPUTY COMMISSIONER- CUM-COLLECTOR
DIST- KAMRUP (METRO) PANBAZAR
GUWAHATI-781001
ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER/ LAND ACQUISITION
OFFICER
O/O THE DEPUTY COMMISSIONER
DIST- KAMRUP (METRO) PANBAZAR
GUWAHATI-781001
ASSAM

4:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE
KAMRUP (M)
GUWAHATI-781001
ASSAM

5:THE PWD NATIONAL HIGHWAY
REP.BY THE EXECUTIVE ENGINEER
PWD

NH DIVISION
M.G. ROAD
FANCY BAZAR
GUWAHATI-01
ASSA

Advocate for the Petitioner : MR. N ALAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

16.02.2024

The instant writ petition has been filed by the petitioner being aggrieved by the inadequacy of the compensation granted to the petitioner without taking into account the actual amount to which the petitioner is entitled to on account of Zirat. Under such circumstances, the instant writ petition has been filed seeking a direction upon the respondents to award an amount of Rs.13,06,680/- for the balance payment in accordance with the provisions of Land Acquisition Act, 1894 (for short, the LA Act of 1894) along with interest.

2. This Court has duly taken note of the facts involved which shows that the land of the petitioner was acquired in LA Case No.13/2007. The award was passed pursuant to the approval being granted by the Government on 17.03.2010 thereupon the petitioner being aggrieved with the inadequacy of the compensation had submitted an application before the District Commissioner requesting for re-assessing of the compensation for the standing Zirat over the

acquired land. However, the District Commissioner instead of making a reference under Section 18 of the LA Act of 1894 passed certain instructions thereby directing the Circle Officer, Guwahati Revenue Circle, as well as the Executive Engineer, PWD, NH Division to conduct a survey and on the basis of the said survey being conducted, it was found that the petitioner was entitled to a further amount of Rs.13,06,670/-.

3. Be that as it may, it is very relevant to take note of that it is well settled that when an award is passed by the Collector in terms with the provisions of LA Act of 1894, the award is final between the person interested and the Collector and the same can only be interfered with by the Civil Courts in accordance with the provisions stipulated under the LA Act of 1894.

4. It is the opinion of this Court that the District Commissioner/Collector would have no jurisdiction to again make re-assessment on the basis of the inadequacy of the compensation after the award has been passed.

5. Under such circumstances, it is, therefore, the opinion of this Court that a writ which has been sought for by way of the instant writ petition cannot be issued in the facts of the instant case.

6. Be that as it may, this Court duly takes note of the facts involved and to the effect that the petitioner had duly submitted a representation before the District Commissioner Kamrup(M) and on the basis thereof, a reference ought to have been made by the said authority in terms of Section 18 of the LA Act of 1894,

but the same was not done and instead the District Commissioner, Kamrup (M) initiated actions which was not permissible under the law.

7. Under such circumstances, this Court grants the petitioner the liberty to file an application within 42 days from today, before the District Commissioner Kamrup(M) seeking a reference on the aspect of inadequacy of compensation in the award and upon such application being filed, the District Commissioner shall in terms with Section 19 of the LA Act of 1894 make a reference to the Court of the District Judge Kamrup(M) forthwith and not later than 30 days from the date of such application.

8. With the above observations and directions, this writ petition, therefore, stands disposed of.

JUDGE

Comparing Assistant