

GAHC010285692023



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

Case No. : I.A.(Civil)/3773/2023
In WA No.375/2023 (D/O)

1: THE GENERAL MANAGER (LA AND COORD.) AND 4 ORS. NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED, REGIONAL OFFICE- GUWAHATI, ASSAM, PIN-781001.

2: THE NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED REP. BY ITS CHAIRMAN 3RD FLOOR PTI BUILDING 4PARLIAMENT STREET NEW DELHI-1

3: THE EXECUTIVE DIRECTOR
2ND FLOOR AGNISHANTI BUSINESS PARK OPPOSITE AGP OFFICE
AMBARI GUWAHATI

4: THE GENERAL MANAGER (P) NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED
PMU DIPHU PWD(IB) PWD COLONY LUMDING ROAD DIPHU PIN 782460

5: UNION OF INDIA REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA MINISTRY OF ROAD TRANSPORT AND HIGHWAYS TRANSPORT BHAWAN 1 PARLIAMENT STREET NEW DELHI-110001

VERSUS

1: ILABATI DEB AND 7 ORS.
W/O LATE SADHAN CHANDRA DEB, R/O VILL- HOWRAGHAT TINIALI, MOUZA- LANGPHER, P.O.-KACHUPUKHURI, P.S.-HOWRAGHAT, DIST.- KARBI ANGLONG, ASSAM, PIN- 782482.

2: SATYAJIT DEB
S/O LATE SADHAN CHANDRA DEB R/O VILL- HOWRAGHAT TINIALI MOUZA-LANGPHER P.O.-KACHUPUKHURI P.S.-HOWRAGHAT DIST-KARBI ANGLONG ASSAM PIN- 782482

3:SUDHAMA DEB
S/O LATE SADHAN CHANDRA DEB R/O VILL- HOWRAGHAT TINIALI
MOUZA-LANGPHER P.O.-KACHUPUKHURI P.S.-HOWRAGHAT
DIST-KARBI ANGLONG ASSAM PIN- 782482

4:HARIPAD DEB
S/O LATE SADHAN CHANDRA DEB R/O VILL- HOWRAGHAT TINIALI
MOUZA-LANGPHER P.O.-KACHUPUKHURI P.S.-HOWRAGHAT DIST-KARBI
ANGLONG ASSAM PIN- 782482

5:THE CHIEF ENGINEER
CPWD GARCHUK GUWAHATI-781035.

6:THE EXECUTIVE ENGINEER KHATKHATI CENTRAL SUB-DIVISION NO.II.
CPWD KHATGHATI ASSAM

7:THE PRINCIPAL SECRETARY KAAC KARBI ANGLONG AUTONOMOUS
COUNCIL DIPHU KARBI ANGLONG ASSAM PIN-782460.

8:THE JOINT SECRETARY (REVENUE) CUM COMPETENT AUTHORITY FOR
LAND ACQUISITION KARBI ANGLONG AUTONOMOUS COUNCIL DIPHU
KARBI ANGLONG ASSAM PIN-782460

For the Applicants	: Mr. D. Gogoi, Advocate.
For the Respondent	: Mr. G. Alam, Advocate for respondent Nos.1 to 4.
	: Mr. H. Gupta, Advocate for CPWD/respondent Nos.5 to 6.
	: Mr. J. Chutia, Standing Counsel, KAAC.

- BEFORE -
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

22.04.2024
(Vijay Bishnoi, CJ)

This Interlocutory Application is filed by the applicants with a prayer to suitably vacating/modifying the order dated 28.09.2023 passed by this Court in WA No.375/2023.

This Court has disposed of the writ appeal (WA No.375/2023) on 28.09.2023 by passing the following order:

“Heard the learned counsel appearing for the parties.

The instant writ appeal is preferred against the order dated 18.09.2023, passed by the learned Single Judge in I.A.(C) No. 2837/2023 in WP(C) No. 5205/2023.

The dispute between the parties to the instant writ appeal and the captioned writ petition is regarding valuation of the appellants’ building/house/structures standing on the plot of land, which has been acquired by the National Highway and Infrastructure Development Corporation Limited (NHIDC) for the purpose of widening/upgrading the existing National Highway-29 to 4-Lane Highway in the District of Karbi Anglong, Assam.

The construction of the Highway at the location, where the appellants’ buildings/houses are located, is held up on account of the ad-interim order dated 19.04.2023 passed by the Commissioner cum Arbitrator appointed under sub-section 5 of section 3G of the National Highways Act, 1996. By the said interim order dated 19.04.2023, the Arbitrator directed not to demolish the residential house, structure and not to uproot the trees standing on the appellant’s land. By another order dated 02.05.2023, the Arbitrator directed that the Valuation Officer, Income Tax shall assess the market value of the building/house/structures of the petitioners (appellants herein) at the rate applicable as on 03.11.2020.

It may be stated herein that in the intervening period the post of Arbitrator has been abolished and, thus, the proceedings before the Arbitrator are stalled thereby construction/widening of the Highway in question has been adversely affected.

In view of the peculiar facts narrated above, it is hereby directed that copy of this order shall be presented to the Valuation Officer, Central Public Works Department (CPWD).

Copy of this order be provided to the competent authority in the CPWD within two days, whereupon the CPWD authority shall appoint a suitable date for the valuation of the property within the next five days. The valuation shall be carried out in terms of the order dated 02.05.2023, passed by the Arbitrator.

The appellants herein and the representative(s) of the NHIDCL may remain present and shall be permitted to append their signatory during the measurement as well as in the valuation proceedings.

The ad-interim stay order dated 19.04.2023 passed by the Arbitrator shall stand vacated after the valuation report is prepared and presented in the arbitration proceedings.

Writ appeal stands disposed of in terms of the above observations and directions.”

Mr. H. Gupta, learned counsel appearing for the respondent CPWD has informed that the CPWD has already prepared the Valuation Report and submitted the same before the National Highway and Infrastructure Development Corporation Limited (NHIDCL).

Mr. D. Gogoi, learned counsel appearing for the NHIDCL has submitted that the said Valuation Report has already been submitted before the Arbitrator, who is seized of the matter.

Mr. G. Alam, learned counsel appearing for the respondent Nos.1 to 4 (private respondents) has submitted that a copy of the Valuation Report be supplied to him so that the private respondents may place their cases before the Arbitrator.

Mr. D. Gogoi, learned counsel for the NHIDCL is directed to supply a copy of the Valuation Report to the counsel for the private respondents within a period of 2(two) days.

In view of the fact that the CPWD has already prepared the valuation report and submitted the same to the NHIDCL, who in turn has submitted it before the Arbitrator for determining compensation to be paid to the private respondents, we are of the view that when the Co-ordinate Bench of this Court vide order dated 28.09.2023 passed in WA No.375/2023 has already clarified that the *ad-interim* stay order dated 19.04.2023 passed by the Arbitrator shall stand vacated after the Valuation Report is prepared and presented in the

Arbitration proceedings, in the above noted facts, no further order is required to be passed in this Interlocutory Application.

The NHIDCL is free to proceed forward with the construction, by removal of the structures and trees/crops/plants of the respondent Nos.1 to 4.

The instant Interlocutory Application is disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant