

GAHC010285902023



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

Case No. : WP(C)/7364/2023

CHITTARANJAN BARUAH
SON OF LATE BASANT KR. BARUAH, ADDRESS- HOUSE NO. 18, JEUTI
PATH, RUKMINIGAON, P.O. KHANAPARA, P.S. DISPUR, DISTRICT- KAMRUP
(M), PIN- 781022

VERSUS

THE UNION OF INDIA AND 8 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF ROAD TRANSPORT
AND HIGHWAY, HAVING ITS OFFICE AT TRANSPORT BHAWAN, 1,
PARLIAMENT STREET, NEW DELHI- 110001

2:THE SECRETARY
MINISTRY OF ROAD TRANSPORT AND HIGHWAY
TRANSPORT BHAWAN
1
PARLIAMENT STREET
NEW DELHI- 110001

3:THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
G 5 AND 6
SECTOR 10
DWARKA
NEW DELHI- 110075
REPRESENTED BY THE CHAIRMAN

4:THE REGIONAL MANAGER NORTH EASTERN REGION
THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
NEDFI HOUSE
DISPUR
GUWAHATI- 781006

5:THE NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
PARLIAMENT STREET
NEW DELHI- 110001
REPRESENTED BY THE MANAGING DIRECTOR

6:THE EXECUTIVE DIRECTOR (P) CUM HIGHWAY ADMINISTRATOR
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD
2ND FLOOR
AGNISHANTI BUSINESS PARK (OPP. AGP OFFICE)
GNB ROAD
AMBARI
GUWAHATI- 781001

7:THE COMMISSIONER AND SECRETARY
REVENUE
REGISTRATION AND D.M. DEPARTMENT
DISPUR
GUWAHATI- 781006

8:THE DEPUTY COMMISSIONER
KAMRUP (METRO)

9:THE CIRCLE OFFICER
AZARA REVENUE CIRCL

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 01-04-2024

Heard Mr. AK Baruah, learned counsel for the petitioner as well as Ms. R. Devi, learned CGC appearing for the respondent nos.1 and 2 and Mr. C. Baruah, learned standing counsel for the respondent nos.3 to 6 as well as Ms. N. Bordoloi, learned standing counsel for the respondent no.7 and Mr. B. Goswami,

learned Addl. Advocate General for the State along with Mr. P. Kakati, learned counsel for the respondent nos.8 and 9.

2. The petitioner has stated that he is the owner of a plot of land measuring 3 Bighas 2 Kathas 5 Lessas, covered by Dag no. 204 & K.P. Patta no. 147, situate at Village – Pachaniya Para, Mouza – Dakshin Rani, Azara Revenue Circle [‘the subject-plot’, for short], which he had purchased by way of a registered Sale Deed on 11.08.1996 [Annexure-B]. The subject-plot has been mutated in favour of the petitioner by a mutation order and the said fact is reflected in the Jamabandi of Village – Pachaniya Para. Pursuant to an application for conversion of the class, the class of the subject-plot has been reclassified from agricultural land to non-agricultural land in the year 2022 and the petitioner has deposited the requisite premium amount for such reclassification.

3. It has been projected that the respondent NHIDCL has been given the project to construct the National Highway no. 17 falling within the stretch of land from K.M. 197.84 to K.M. 200.750 in the district of Kamrup Metro. For the purpose of construction of National Highway no. 17, the Central Government in the Ministry of Road Transport and Highways had initiated a land acquisition process under the provisions of the National Highways Act, 1956. For the purpose of land acquisition, Notifications under Section 3A and Section 3D have also been issued on different dates. In the said Notifications under Section 3A and Section 3D, the subject-plot did not figure. Yet, the respondent authorities in the NHIDCL has, on and from 14.12.2023, entered upon the subject-plot and started the activities for construction of National Highway no. 17. Aggrieved thereby, the petitioner has preferred the instant writ petition, with the prayer

either to acquire the subject-plot by following the provisions of the National Highways Act or to exempt the subject-plot from the said acquisition process.

4. The learned Addl. Advocate General for the State has referred to the order dated 15.03.2024 and has submitted that he had produced a copy of instructions dated 08.03.2024 along with a copy of the Gazette of India dated 16.02.2024, which contains a notification under S.O.752(E) dated 16.02.2024, issued by the Ministry of Road Transport and Highways by virtue of which the land of the petitioner measuring 0.3451 hectares covered by Dag no.204 of KP Patta no.147 covered by village Pachaniya Para, Mouza Dakshin Rani, Azara Revenue was to be acquired, with or without structure, falling within NH-17.

5. At this stage, the learned standing counsel for the NHA and NHIDCL have submitted that as and when the Competent Authority for Land Acquisition (CALA) makes an assessment and provides it to the executing agencies like NHA and NHIDCL, only thereafter the payment for compensation would be released.

6. It is noted from the pleadings made in this writ petition that in this case the construction activity for NH-17 had already commenced over the land of the petitioner and the petitioner had approached this Court at that stage, and this Court while issuing notice by order dated 18.12.2023, this Court had restrained carrying out of any construction activities in connection with NH-17 on or over or within the subject-plot belonging to the petitioner.

7. It is observed from the Gazette notification appearing in the Gazette of India dated 16.02.2024 that as on the date of the said notification the competent authority had only exercised powers conferred by sub-section (1) of

section 3D of the National Highway Act, 1956 and the Central Government had declared that the land of the petitioner described in Schedule thereto should be acquired. Therefore, by sub-section (2) of section 3D of the said Act, on publication of the notification the scheduled land vests absolutely in the Central Govt., free from all encumbrances. Therefore, in order to take possession, the competent authority has to comply with the requirement of section 3(E) as well as section 3(F) of the National Highway Act, 1956. Therefore, now there appears to exist no impediment for the Addl. District Commissioner, In-charge Land Acquisition, Competent Authority for Land Acquisition (CALA) to do the needful so as to expedite the process of land acquisition compensation to be payable to the petitioner in respect of the land acquisition.

8. We hope and trust that CALA will do the needful within a period of 2(two) months from the date of receipt of certified copy of the order.

9. The petitioner shall also provide his e-mail address to the CALA so as to enable the said authority to make communication to the petitioner.

10. The interim order passed earlier stands merged with this order.

JUDGE

Comparing Assistant