

GAHC030001062024



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

Case No. : WP(C)/8/2024

Sh. Hauthuama (L) R/b his daughter H. Lallianmawii
S/o Saihnuna (L)
R/o Champhai Vengthlang

VERSUS

Union of India and 3 Ors.
R/b Secretary, Ministry of road Transport and Highways
Transport Bhawan 1, Parliament Street New Delhi-110001

2:Executive Director
National Highways and Infrastructure Development Corporation Ltd.

3:General Manager
National Highways and Infrastructure Development Corporation Ltd.

4:Competent Authority for Land Acquisition/ Addl. Deputy Commissioner
Champhai Distric

Advocate for the Petitioner : Mr. Lalbiaknunga Hnamte

Advocate for the Respondent : Ms Zairemsangpuii, CGC for R1

Linked Case : I.A.(Civil)/110/2024

Hauthuama (L) R/b his daughter H. Lallianmawii
R/o Champhai Vengthlang

VERSUS

Union of India and 3 Ors.
R/b Secretary
Ministry of Road Transport and Highways

Transport Bhawan 1
Parliament Street
New Delhi-110001

Advocate for the Petitioner : Mr. Lalbiaknunga Hnamte
Advocate for the Respondent : Ms Zairemsangpuii
CGC for R1

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER**

Date : 06-12-2024

Heard Mr. Lalbiaknunga Hnamte, learned counsel for the petitioner along with Mr. Samuel Vanlalhriata Chhangte, learned counsel for respondent Nos. 2 & 3 and Ms. Zairemsangpuii, learned CGC for respondent No. 1.

The learned CGC submits that they will not be filing any counter-affidavit since they have nothing to say in the instant matter.

2. The learned counsel for the petitioner submits that the case of the petitioner is that on the construction of road by the respondent Nos. 2 & 3, his landed property covered by periodic Patta No. 307702/09/321 of 2000 located at Chungte Village Area, Champhai District, has been encroached by the respondents. He submits that he had utilized his landed property for Wet Rice Cultivation and for seasonal crops, which is the main source of income for him and his family. The respondents, on 21.05.2021, issued a notification dated 17.05.2021 under Section 3C of the National High Way Act 1956, inviting objections in connection with the acquisition of land for the development of NH-6: stretch 130 km - 147.25 km, at Chungte Village. Thereafter, on 13.08.2021,

Notification of Award u/s 3G and 3H of the National High Way Act, was published by respondent No. 4. However, the instant petitioner was excluded in the said Award dated 13.08.2021. Aggrieved by this, the petitioner had approached the respondent No. 4 on many occasions and submitted his complaint which was ineffective.

3. The learned counsel for the petitioner submits that he was informed by the respondents that the construction/development/widening of the said NH-6 did not affect his landed property as per the proposed alignment, however, the claim of the petitioner is that around 1500 metre (Approx) of the landed property of the petitioner was cut through by the respondent for the construction of the said NH-6.

4. The learned counsel for the petitioner submits that the instant writ petition is filed with a limited prayer that the respondent authorities should conduct a spot verification of the petitioners landed property and verify whether the landed property of the petitioner was encroached upon by the respondents and if so, proper acquisition and payment of compensation may be given to the petitioner as per law.

5. Mr. Samuel Vanlalhriata Chhangte, learned counsel for respondent Nos. 2 & 3, on the other hand, submits that the respondents had already conducted a spot verification on 01.04.2024. In the joint inspection conducted the EPC contractor, AE's representative and EPC Contractor M/S Balaji's representative attended the inspection. The VCP Chungte was also present during the discussions after inspection. Based on the joint inspection and the discussions, it was found that the plot of land owned by the petitioner was 1500 mtrs away of the alignment and all road work execution is constrained within the provided

ROW. The learned counsel for the respondent No. 2 & 3 thus submits that since this is the report of the spot verification conducted, they appeared to be a disputed question of facts and therefore, the matter should be remanded to the lower Court, for proper adjudication by adducing necessary evidence. The learned counsel in support of his submission has relied on the decision of the Apex Court in ***Union of India & Ors. Vs. Puna Hinda***, reported in **(2021) 10 SCC 690** (Para 24).

6. Having heard the submissions made by the learned counsels for both the parties, this Court on considering the nature of the limited prayer made by the learned counsel for the petitioner, finds it appropriate to disposed of the instant writ petition with a direction that a spot verification of the landed property of the petitioner is to be conducted in the presence of the petitioner and representatives of all the respondents and thereby, verify whether the construction of the road for development of NH-6 stretch 130 km – 147.25 km in the village of Chhungte, Champhai District encroaches upon the landed property of the petitioner covered by Periodic Patta No. 307702/09/321 of 2000.

7. It is observed that the said verification report dated 01.04.2024 was conducted after the filing of the instant writ petition and therefore, it would be more appropriate that the writ petitioner and other respondent parties are also present at the time of the said verification.

8. It is also directed that the respondent No. 4 being the Deputy Commissioner/Competent Authority for Land Acquisition proceeding should take the initiative for conveying a date for conducting the spot verification. The necessary step is to be taken within 4 (four) weeks from the date of receipt of a certified copy of this order by the concerned parties. Thereafter, after the spot

verification, if it is found that the landed property of the petitioner is encroached upon, steps be taken by the respondents as per law for payment of compensation due to the petitioner.

This Court also finds that the cited case in ***Union of India & Ors. Vs. Puna Hinda (Supra)*** is not applicable in the instant case. In the cited case, the matter pertained to a contract arising out of tender for construction of road and the dispute is as to the amount payable to the tenderer and wherein the entire amount claimed by the Writ petitioner was disputed, thus the dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. Thus, this Court finds that the facts and circumstances are different and hence not applicable for the instant case.

9. The Writ Petition No. 8 of 2024 thus stands disposed of as above.

JUDGE

Comparing Assistant