

GAHC030005572023



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

Case No. : WP(C)/131/2023

Sh. S. Kheipaw and 15 Ors.
S/o S. Laihla
R/o Laki, Siaha District, Mizoram 2: Smt. Esthery Hlychho

3: Sh. B. Laitu

4: Sh. HC. Ngothy

5: Sh. P. Hnabeisei

6: Sh. ST. Khaihlu

7: Sh. C. Kisa

8: Sh. S. Kothie

9: Sh. K. Mothie

10: Sh. P. Vahnei

11: Sh. Relly Khithie

12: Sh. T. Sahnei

13: Sh. L. Hrahie

14: Sh. S. Kothie

15: Sh. B. Ferdinand

16: Sh. B. Beichhuas

VERSUS

Union of India and 5 Ors.

r/b the Secretary to the Govt. of India, Ministry of Defence, Sena Bhavan 101A, South Block, New Delhi-110011 2: The Chief Engineer
Border Road Task Force (BRTF)

3: The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Dept.

4: The Deputy Commissioner/District Collector

5: The Executive Secretary
i/c Land and Revenue Department
Mara Autonomous District Council

6: The Senior Revenue Officer
Mara Autonomous District Council

Advocate for the Petitioner : Ms Dinari T Azyu

Advocate for the Respondent : Ms Zairemsangpuii, CGC for R1 & 2

ORDER
BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

20.05.2024

Heard Ms. Dinari T. Azyu, learned counsel for the petitioners. Also heard Mrs. H. Lalmalsawmi, learned Government Advocate for the State respondent Nos. 3 & 4 and Ms. Zairemsangpuii, learned CGC for the respondent Nos. 1 & 2. No one appears for the respondent Nos. 5 & 6 despite notice being served upon them through Dasti service.

2. The affidavit of service submitted by the petitioners in this regard is accepted and notice is deemed to be served upon the respondent Nos. 5 & 6.

3. The petitioners' grievance in this writ petition is with regard to the pronouncement of the Award No. 1Additional-1 of 2018 dated 21.03.2018 issued by the District Collector, Siaha District, wherein the petitioners' lands have been acquired for construction of a road to Tuipang-Laki-Lope-Lungpuk (40-570 km) in Siaha District, Mizoram.

4. The petitioners' counsel submits that the above Award No. 1Additional-1 of 2018 has been made under the Land Acquisition Act, 1894 (in short 'LA Act, 1894'), which was repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short '2013 Act').

5. The petitioners' counsel submits that the compensation value of the acquired lands would have to be made in terms of the 2013 Act and not as per the repealed Act, i.e., the LA Act, 1894. She submits that though compensation has been paid in terms of the Award made under the LA Act, 1894, the compensation payable to the petitioners under the 2013 Act would have to be made, after adjusting the amount of compensation already paid under the LA Act, 1894.

6. A perusal of the Award No. 1Additional-1 of 2018, which has been signed by the District Collector, Siaha District, Siaha on 21.03.2018, clearly goes to show that the same has been made under the LA Act, 1894, which has been repealed by the 2013 Act, which came into force on 01.01.2014.

7. As Award No. 1Additional-1 of 2018 is a void/invalid Award, as it could not have been made under the repealed Act, the District Collector, Siaha District is directed to issue a fresh Award, in terms of the 2013 Act. This would be in line with the Judgment & Order dated 15.11.2017 passed in WP(C) Nos. 20/2014 and 30/2014, wherein it has been held that for acquisition of land within the State of Mizoram, the 2013 Act would have to be followed.

8. Any compensation provided to the petitioners in terms of the Award made under the LA Act, 1894 would have to be adjusted in terms of the compensation to be made in terms of the 2013 Act. The entire exercise should be concluded within a period of 5 (five) months from the date of receipt of a certified copy of this order.

9. The writ petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant