



Serial No. 01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 14 of 2023

Date of order: 24.10.2025

1. Smti. Surmamon Nongbri
2. Smti. Esbian Nongkhlaw
3. Smti. Billo Mylliempdah
4. Smti. Nehkynti Syiem
5. Smti. Olike Lyngdoh
6. Smti. Brissila Pyngrope
7. Smti, Binaris Pyngrope
8. Smti. Bitiful Kharmudai
9. Smti. Riti Kharmudai

...Appellants

- versus -

1. State of Meghalaya represented by the Chief Secretary, Government of Meghalaya, Shillong, Meghalaya.
2. The Commissioner and Secretary to the Government of Meghalaya, Land and Revenue Department, Shillong.
3. The Under Secretary to the Government of Meghalaya, Revenue and Disaster Management Department, Government of Meghalaya, Shillong.
4. The Commissioner and Secretary, Public and Health Engineering, Shillong.
5. The Deputy Secretary to the Government of Meghalaya, Public Health Engineering Department, Shillong.
6. The Under Secretary to the Government of Meghalaya, Public Health Engineering Department, Shillong.
7. The Chief Engineer (PHE) Government of Meghalaya, Shillong.



8. The Additional Chief Engineer (PHE), Zone-1, Government of Meghalaya, Shillong.
9. The Chief Engineer (PHE), Electrical Division, Mawphlang, East Khasi Hills District, Meghalaya.
10. The Superintendent of Engineer (PHE), Electrical Circle, Shillong.
11. The Executive Engineer (PHE), Electrical Division, Mawphlang, East Khasi Hills District, Meghalaya.
12. The Additional Director of Survey, Government of Meghalaya, Shillong.
13. The Collector, East Khasi Hills District, Meghalaya, Shillong.
14. Headman of Jalynteng, Nongkynrih, Khyrim Syiemship, East Khasi Hills District, Meghalaya.
15. Headman Madan Lyngdoh, Nongkynrih Khyrim Syiemship, East Khasi Hills District, Meghalaya.
16. Headman Wahtyngngai, Nongkynrih Khyrim Syiemship, East Khasi Hills District, Meghalaya.
17. Headman Madan Phutbol, Nongkynrih Khyrim Syiemship, East Khasi Hills District, Meghalaya

....Respondents

Coram:

Hon'ble Mr. Justice Soumen Sen, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellants : Mr H.L. Shangreiso, Sr Adv. with
 Ms M. Hajong, Adv.

For the Respondents : Mr A. Kumar, Advocate General with
 Ms R. Colney, GA

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |
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JUDGMENT: (per the Hon’ble, the Chief Justice) (Oral)

The affidavit of service filed on behalf of the appellants is taken on record.

2. The appellants claiming to be the landowners whose land had submerged during the construction of the dam across the River Umiew at Dkong Nongkynrih during the implementation of the Wahtyngngai Combined Water Supply Scheme. It appears that an administrative approval was received on March, 2007 for an amount of ₹10,90,08,500/- towards construction of the said dam. The villages upstream of the dam raised their concern during the rainy season on flooding of cultivable land and it appears that the Executive Engineer, PHE Electrical Division, Mawphlang in his report prepared in February, 2020 has given an opinion that the construction of the dam across the river Umiew at Dkong was taken up at the sloping portion of the river for possible avoidance of the inundation of areas upstream of the dam but on account of heavy rain there was backlash of water impounded against the dam. However, no inundation of cultivable land after 2011 had been reported.

3. The writ petitioners did not accept the said report and have claimed that due to the construction of the said dam, there has been inundation of cultivable land and they have lost their land forever.



4. It was in the conspectus of such facts and conflicting stand taken by the parties, the learned single judge disposed of the writ petition with the directions contained in paragraph 15 of the impugned judgment. For convenience paragraph 15 is reproduced below:-

“15. In this backdrop of events and circumstances, where nothing is clear to facilitate conclusive adjudication, this Court in the absence of any due process being adopted by the respondents, and looking into the plight of the land owners, who may, or may not have been affected after 2011, but, however, have been pursuing this litigation, deems it fit, inspite of the presence of disputed facts, to direct as follows:-

i) the respondent in the PHE department shall from available records, such as, the details contained in the affidavit filed by the State respondents in WP(C) No. 117 of 2016, which is annexed to the writ petition, as well as, by fresh survey identify and establish as to whether lands of the petitioners remain submerged after 2011, till date.

ii) if the same after survey and examination is found to be true as alleged by the petitioners, the respondents shall initiate the process for acquisition of the said portions of land that have remained submerged till date.

iii) if it is found otherwise, that after only one instance in 2011, portions of land had been submerged, which has not occurred since, after due identification of the owners and the plots that were affected in 2011, the Collector shall from the amount of Rs.6,64,51,581.00/- (Rupees Six Crores Sixty Four Lakhs Fifty One Thousand Five Hundred and Eighty-One) only deposited by the PHE, since 20.09.2018, apportion the said amount as compensation to the land owners, after due assessment and examination of their respective plots.” (emphasis supplied)



5. The appellants are aggrieved by the said order in so far as it directed the PHE to conduct the survey as the appellants/writ petitioners were of the view that there is very likelihood of bias as the PHE is the requiring body and there may not be any fair assessment with regard to the extent of the land submerged due to inundation at the time of construction of the dam and accordingly they prayed for modification of the impugned order dated 02.05.2023 to the extent that the learned District and Sessions Judge or Collector, Shillong or Central Water Commission is directed to conduct fresh enquiry/survey to identify and find out whether the appellants' agricultural land measuring about 30.29 acres situated at Umiew River is affected or submerged by water from RCC dam till date.

6. However, during the pendency of the appeal, the Additional Director of Survey, Government of Meghalaya has filed a report dated 14.08.2023. The learned senior counsel for the appellants has submitted that the report filed by the Additional Director of Survey in compliance with the orders dated 06.06.2023, 28.06.2023 and 24.07.2023 passed in this appeal [WA No.14 of 2023] is acceptable to the appellants and hence, the prayer for modification of the direction with regard to survey is not necessary. In view of that we do not find any reason to interfere with the order passed by the learned single judge although prayer has been made



on behalf of the appellants for implementation of the impugned order. In the event, the State does not implement the said order, it will be open for the appellants to take appropriate steps in this regard.

7. We also record that in the appeal, the headmen of the communities have been impleaded as respondent Nos.14 to 17 on a plea taken by the State that the appellants have donated the said lands to the community head and the community head had allowed the State to utilise the said land free of costs and hence, even if it is found that the said land was submerged due to the construction of the dam, the State is not liable to pay any compensation notwithstanding that the PHE has assessed the compensation a little over of ₹6 crores and a sum of ₹5 crores admittedly has been deposited with the Collector.

8. In our view that the said issue is not required to be gone into in this appeal as it relates to the executability or implementation of the direction passed by the learned single judge. Moreover, it is apposite to mention here that the Additional Director of Survey, Government of Meghalaya filed the report on 14.08.2023 in compliance with the orders dated 06.06.2023, 28.06.2023 and 24.07.2023 passed in the appeal. It is necessary to refer to the orders dated 06.06.2023, 28.06.2023 and 24.07.2023 that had culminated in the report filed by the Additional



Director of Survey on 14.08.2023 for proper appreciation of the said report.

9. On 06.06.2023, the coordinate bench, inter alia, had observed:-

“What the appellants insinuate is that in view of the Act of 2013, the mode of assessing compensation stood altered and the methodology adopted by the Chief Secretary in his report of March 13, 2017 would not pass muster under the provisions for larger compensation introduced by the Act of 2013. The appellants claim that the PHE apparently requested the LA Collector to waive the provisions of the 2013 Act so that the compensation as indicated in the Chief Secretary’s report could be disbursed, whereupon the LA Collector, quite appropriately, responded that he had no authority to waive the applicability of any provision of law.

What also remains the undisputed position is that no notification was issued under the Act of 1894 despite a draft notification in such regard having been prepared by the State. The real controversy is as to whether parcels of land belonging to the appellants herein have been lost to the appellants forever or they only remained submerged for some period of time in 2011. If such lands continue to remain submerged periodically ever since the construction of the dam, it would tantamount to the appellants having lost their land and the State having, de facto, taken possession thereof otherwise than by the procedure established by law.

Accordingly, the State is directed to immediately ensure that photographs of the entire area, including of the parcels of land claimed by the appellants, are immediately taken by drones to establish the present position. Such drone photography must be conducted upon notice to the appellants herein. If reasonable notice of at least two days is given to the appellants, it will be open to the appellants to depute one or more representatives to be present at the time that the photographs are taken.

It is also necessary that the survey directed to be conducted by the order impugned should be completed as expeditiously as possible and, preferably, within six weeks from date. The completion of the survey in terms of the order impugned will be without prejudice to the rights and contentions of the appellants.



The matter will appear a fortnight hence for the photographs to be received; whereupon, if immediate further directions are not required to be issued, it will appear seven weeks hence, after the completion of the survey. The revenue records revealing the plots must be produced at the final hearing. (emphasis supplied)

10. On 28.06.2023, the appellants alleging that the State conducted the survey on 22.06.2023 on a State holiday in the absence of the appellants, the following order was passed:-

“The matter will appear a fortnight hence. A fresh drone survey will be conducted upon giving due notice to the appellants. If any digital photography is undertaken, the State should forward a copy of the entire set in digital form to the appellants and ensure that the Court can see the digital photography when the matter appears next.”

11. Thereafter on 24.07.2023 after recording the submissions of the State and the appellants, the matter was adjourned till 16.08.2023, inter alia, with the following direction:-

“Let the matter appear three weeks hence. A report pertaining to the ground and aerial survey should be filed within a fortnight from date with a copy immediately made over to Advocate for the appellants herein.”

12. Pursuant to the aforesaid orders, a survey report was filed by the Additional Director of Survey, Government of Meghalaya on 14.08.2023 and the said report was taken on record.

13. Thereafter, on 16.08.2023, the State contended that the entirety of such land is covered by an agreement of 05.05.2007 by which the Khyrim Syiemship donated the land for the purpose of the dam upon obtaining



the same from one Smti. Sumarmon Lyngdoh Nongbri. The Hon'ble Division Bench in its order dated 16.08.2023 did not accept the said submission as would appear from the following observations:

“However, the agreement of May 5, 2007 does not indicate the extent of the land. Instead, the agreement refers to a map appended thereto to cover the extent of the land donated thereby.

The physical survey that has been conducted refers to 24 plots in all, about 11 of them belonging to Sumarmon Nongbri. However, the map at the last page of the survey report indicates areas which do not appear to be covered by the area indicated in the map appended to the agreement of May 5, 2007. Indeed, in the survey map, the land of Sumarmon Nongbri has been indicated beyond the 24 plots which have been surveyed and which are said to be submerged as a result of the construction of the dam.

A second report has been filed appending drone photographs of the area. If there is any future dispute, since the photographs have been taken during peak monsoon season, such photographs along with the survey map would indicate the extent of the land which has been submerged upon the construction of the dam.

What is evident is that the petitioners other than Sumarmon Nongbri may not have donated any land for the purpose of the construction of the dam; while it is the admitted position, on the basis of the survey report, that at least 13 plots not belonging to Sumarmon Nongbri remain submerged. That would imply that the relevant plot-owners have lost use of the land covered by the submerged area. Even Sumarmon Nongbri may be entitled to compensation for the area of land belonging to her which has now been submerged other than the area indicated in the map appended to the agreement of May 5, 2007.

Prima facie, the petitioners or a substantial number of them appear to be justified in their claim and the State appears to be liable to compensate the petitioners for their plots of land having been lost to them as a result of the construction of the dam and such plots going under water.

Since the State seeks a fortnight's time to report, let the matter appear three weeks hence when the State should indicate the mode and manner of compensation that the petitioners would be



entitled to and the time-frame within which the exercise would be completed.” (emphasis supplied)

14. The State has accepted the said order.
15. On 19.09.2023, the Hon’ble Division Bench after recording the submission of the appellants that they are being pressurised to accept a much lesser sum than what would be due, inter alia, passed the following directions:-

“There is little to adjudicate in this matter, particularly after the surveys have been conducted pursuant to the orders of this Court. The land which now remains submerged as a result of the dam being constructed has to be regarded as the land which has been de facto acquired, though a substantial part thereof may not have been compensated for. The law has to take its own course and fair compensation for the additional land which has, in fact, been acquired but has not been paid for, has to be paid. It is a matter of simple arithmetic.

It is hoped that the State will indicate how and in what manner the payment will be made when the matter appears next a week hence. There is no doubt that the State can persuade the appellants to accept a little less than what may be due, but that does not mean that the State has a right to ride roughshod over citizens or coerce them into parting with land at an inequitable price.”

16. Subsequently on 04.10.2023, the Division Bench while deciding the issue after taking into consideration the submissions made on behalf of the State that on the basis of a cost-benefit analysis, the Government has decided to dismantle the existing project and has proposed a greenfield project amounting to approximately ₹32.95 crore to cover the 3295 households has some merit. The State’s assertion that a project



which ultimately is so costly may not be viable and it may be inequitable to hold the State to ransom to expend more than Rs.100 crore, after taking into account the money already spent, to cater to the water needs of slightly over 3000 households needs consideration and the appellants were granted leave to use an affidavit in response to the report filed by the State. However, the State was restrained from indulging any action to dismantle the project.

17. In response to the aforesaid, an additional affidavit was filed by the appellants on 03.10.2023.

18. Thereafter, the matter was attempted to be settled between the parties which, however, failed as would appear from the orders dated 01.12.2023 and 15.12.2023.

19. It was at this stage an application was filed by the State respondents for impleading the respondent Nos.14 to 17 and the said prayer was ultimately allowed on 29.02.2024 and the said order was not interfered with by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.9866 of 2024 preferred by the appellants.

20. The issue that ultimately remains to be decided is that what would be the amount of compensation payable to the appellants upon taking into consideration the observations of the Hon'ble Division Bench in paragraph 6 of the order dated 04.10.2023. The issue with regard to the



land being donated and hence the State would not be liable to pay compensation did not find favour with the earlier Division Bench. Moreover, the State respondent did not prefer any cross appeal against the direction passed by the learned single judge.

21. In determining the amount of compensation that may be payable to the appellants, the observations of the Hon'ble Division Bench in paragraph 6 of the order dated 04.10.2023 is relevant and the State must decide on the amount of compensation payable to the appellants taking into consideration the observations made in paragraph 6 of the said order which is stated below:-

“The appellants assert that once land has been acquired, it cannot be returned and that there is a bar in such regard under the applicable laws. At the same time, there is some merit in the State's assertion that a project which ultimately is so costly may not be viable and it may be inequitable to hold the State to ransom to expend more than Rs.100 crore, after taking into account the money already spent, to cater to the water needs of slightly over 3000 households.”

22. In our view, the Collector would have been the appropriate authority to decide the amount of compensation. However, it appears that the Deputy Commissioner then made an assessment with the old probable cost of ₹6,64,51,580/- as compared to the new estimated probable cost of ₹78,87,43,573/- for compensation based on the Right to Fair



Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

23. Upon the survey report being accepted by the appellants, the direction in paragraph 15(iii) of the impugned order is now required to be given effect to by the State respondents. The compensation amount is restricted to the aforesaid sum of ₹6,64,51,580/- having regard to the observation made in paragraphs 6 of the order dated 04.10.2023. Moreover, the respondent Nos.14 to 17 have not come forward to support the stand of the State that no compensation would be payable to the writ appellants.

24. In view of the aforesaid, we do not find any reason to interfere with the order passed by the learned single judge. We make it clear that if any issue arises with regard to the implementation of the order passed by the learned single judge, the parties shall be at liberty to approach the learned single judge for any clarification or direction upon prior notice to the parties.

25. Accordingly, the appeal is disposed of.

(W. Diengdoh)
Judge

Meghalaya
24.10.2025
"Sylvana PS"

(Soumen Sen)
Chief Justice