



Serial No.02
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.74/2025

Date of order: 03.12.2025

Balpakram A.king Nokmas Social welfare Association represented by
its Attorney Smti. Ruthilla R. Marak Appellant

Vs.

1. The State of Meghalaya represented by the Chief Conservator of the
Forest (Wildlife), Shillong.

2. The Secretary Forest Department, Government of Meghalaya,
Shillong.

3. The Commissioner and Secretary, Revenue Department, Government
of Meghalaya, Shillong.

4. The Collector, Baghmara, South Garo Hills District.

5. Union of India represented by the Secretary, Forest and Environment,
Government of India, New Delhi. Respondents

Coram:

Hon'ble Mr. Justice Soumen Sen, Chief Justice

Hon'ble Mr. Justice H.S. Thangkhiew, Judge

Appearance:

For the Appellant : Mr. P. Yobin, Adv with
Mr. B. Komi, Adv

For the Respondents : Mr. S. Sen, Sr.GA with
Mr. A.H. Kharwanlang, Addl.Sr.GA
Ms. K. Gurung, Adv vice
Dr. N. Mozika, DSGI

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No



JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The appeal arises out of an order dated 06.06.2025 passed by the learned single judge in a writ petition in which the Association has challenged the decision of the Deputy Commissioner, South Garo Hills, Baghmara dated 04.03.2019. The writ petition was dismissed on the ground that it was barred by the principle of res judicata.

2. The learned single judge has referred to the order passed earlier in the writ petition filed by the present appellant, being WP (C)No.315(SH)2002, disposed of by the Hon'ble Mr. Justice T. Vaiphei on 02.03.2011.

3. The learned counsel for the appellant while accepting that there is an observation in paragraph 3 which have recorded that the appellant has not availed the remedy within the period of limitation, subsequent order dated 11.02.2019 has been passed in a writ petition being WP(C)No.500 of 2018, where the learned single judge allowed the prayer of the appellant with regard to consideration of the representation made by the Association for enhancement of compensation. It is submitted that the decision of the Deputy Commissioner, South Garo Hills, Baghmara dated 04.03.2019 has given a fresh cause of action for consideration.



4. The learned counsel for the State in opposing the prayer has referred to paragraph 3 of the judgment passed by the Gauhati High Court on 02.03.2011 while disposing of a series of writ petitions and submits that there is a categorical finding in the earlier proceeding that there has been an inordinate delay of almost seven to fifteen years in challenging the quantum of compensation awarded and no attempt was made to avail the remedy under Section 18 of the Act for reference by the Collector to the Land Acquisition Court and by reason thereof, the appellant's has forfeited her right to challenge the said proceeding at this distant point of time. In order to appreciate the arguments made by the parties, it is necessary to refer to paragraph 3 of the order dated 02.03.2011 passed by the learned single judge in disposing of a series of writ petitions concerning similar issues. The said paragraph is set out below:

“3. Now, from the own pleadings of the petitioner, it becomes obvious that the landowners represented by it are aggrieved by the quantum of compensation awarded to them between 1991-92 and 1995-96. In my opinion, it is now too late in the day to challenge the award made some seven to fifteen years before. Moreover, if the petitioner is really aggrieved by the quantum of compensation so awarded, it had the remedy under Section 18 of the Act for reference by the Collector to the Land Acquisition Court provided that it was filed within the period of limitation prescribed thereunder. Having not done so, the writ petition is so far as 352 sq.km is concerned is barred by non-exhaustion of an



alternative statutory remedy. As for 114.85 sq.km of the Akhing land, the State respondents at paragraph 11 of their affidavit-in-opposition dated 11-12-2002 have clearly stated that this additional land comprising of eight Akhings is yet to be acquired. This position is reiterated by them in paragraph 10 of their latest affidavit-in-opposition dated 18-8-2010. It is also categorically asserted by them in paragraph 19 therein that the Forest Department does not occupy or use any of the aforesaid land and will not do so until the same is properly acquired and handed over to them by the District Collector. This is re-affirmed by the Chief Conservator of Forest, Government of Meghalaya in his affidavit dated 10-9-2010. In the light of the categorical declaration made by the State respondents that they are yet to acquire the Akhing land measuring 114.85 square kilometer, no mandamus can be issued by this Court for directing them to pay the compensation. To this extent, the writ petition appears to be premature. It shall, however, be open to the petitioner to approach this Court again if the State-respondents decide to take over possession of the Akhing land in question without payment of compensation or without following the procedures laid down by the Act. However, the State-respondents shall not forcibly occupy or otherwise take over possession of any portion of the Akhing land measuring 114.85 square kilometer before payment of due compensation to the petitioner-association or without authority of law. Order accordingly.”

5. The aforesaid observation was made in disposing of the writ petition filed by the present appellant. This, in our view, has closed the matter and a mere representation thereafter for reconsideration would not give a fresh cause of action to the appellant as having not challenged the order, it has attained its finality.



6. It is trite law that the principle of res judicata would apply in a writ proceeding. The learned single judge, in our view, has correctly referred to Section 11 of the CPC and the decision of the Hon'ble Supreme Court in this regard and held that the writ petition was barred by the principle of res judicata. It is well settled that what cannot be achieved directly cannot be achieved by indirect means. The disposal of the representation cannot open the front for the appellant to reagitate the issues that have already suffered a burial.

7. In view of the above, the appeal stands disposed of.

8. However, there shall be no order as to costs.

(H.S. Thangkhiew)
Judge

(Soumen Sen)
Chief Justice

Meghalaya
03.12.2025
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