GAHC010067052024

2026:GAU-AS:15974

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

Case No. : WP(C)/1792/2024

PROBIN BORA
S/O SRI BUPATI BORA, RESIDENT OF HEZARI GAON, PO AND PS PULIBOR, MOUZA CHARAIBAHI, DIST JORHAT, ASSAM

VERSUS

UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN, PARLIAMENT STREET, NEW DELHI 110001.

2:NATIONAL HIGHWAY AUTHORITY OF INDIA
REPRESENTED BY ITS CHAIRMAN
HAVING ITS REGIONAL OFFICE AT NEDFI HOUSE 4TH FLOOR
GS ROAD
DISPUR
GUWAHATI 781006 ASSAM

3:THE GENERAL MANAGER
NATIONAL HIGHWAY AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED (NHIDCL) JORHAT ASSAM

4:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY
REVENUE AND DISASTER MANAGEMENT GOVT. OF ASSAM
DISPUR
GUWAHATI 06

5:THE DEPUTY COMMISSIONER
JORHAT
DISTRICT-JORHAT
ASSAM

6:ADDITIONAL DEPUTY COMMISSIONER (LAND ACQUISITION) CUM COMPETENT AUTHORITY FOR LAND ACQUISITION
(CALA)
JORHAT
DISTRICT - JORHAT
ASSAM

7:THE EXECUTIVE ENGINEER

PUBLIC WORK DEPARTMENT
JORHAT BUILDING
JORHAT
ASSAM

8:SRI PROBIN BORA
S/OO LATE RAJANI BORA

RESIDENT OF HEZARI GAON
PO AND PS PULIBOR
MOUZA CHARAIBAHI
DIST JORHAT
ASSAM 78500

-BEFORE-

HON'BLE MR. JUSTICE ROBIN PHUKAN

Advocates for the petitioner : Mr. D. Das, Senior Advocate, assisted by Mr. K. Mohammad.

Advocate for the respondents : Mr. C. Baruah, S.C., NHIDCL, respondents Nos. 1-3.

Mr. S. Dutta, Advocate, respondent No. 4.

Mr. D. Nath, Additional Senior Government Advocate, Assam, respondent Nos. 5 & 6.

Mr. S. Sarma, Advocate, respondent No. 7.

Mr. P. Mahanta, Advocate, respondent No. 8.

Mr. B. K. Sen, Advocate, respondent No. 9.

Date of which Judgment is reserved **:** 17.09.2026

Date of pronouncement of Judgment **: 02.11.2026**

Whether the pronouncement is of the operative part of the Judgment? **:** N/A

Whether the full judgment has been pronounced? **:** Yes

JUDGMENT & ORDER (CAV)

Heard Mr. D. Das, learned Senior Counsel, assisted by Mr. K. Mohammad, learned counsel for the petitioner. Also heard Mr. C. Baruah, learned Standing Counsel, NHIDCL, for the respondent Nos. 1, 2 & 3; Mr. D. Nath, learned Additional Senior Government Advocate, Assam, for the respondent Nos. 5 & 6; Mr. S. Sarma, learned counsel for the respondent No. 7; Mr. P. Mahanta, learned counsel for the respondent No. 8 and Mr. B. K. Sen, learned counsel for the respondent No. 9.

2. In this petition, under Article 226 of the Constitution of India, the petitioner has prayed for granting the following reliefs –

(a) To issue direction to the respondents, more specifically respondent Nos. 3, 5 and 6, to immediately pay the compensation amount of Rs. 50,21,954/- (Rupees Fifty Lakhs twenty one thousand nine hundred and fifty four) against structural compensation for his 4 numbers of RCC shop rooms and part of Assam Type house, situated over the acquired plot of land, covered by Dag No. 426, Periodic Patta No. 143;

(b) To issue direction to the respondents to pay appropriate penalty for

physical and mental agony suffered by the petitioner since 2014; and

(c) Further, to direct the respondents to pay interest @ 12 % per annum from the date of release of the compensation amount of Rs. 50,21,954/- (Rupees Fifty Lakhs twenty one thousand nine hundred and fifty four) to the proforma respondent.

Background facts:

3. The background facts, leading to filing of the present petition, are briefly stated as under –

"The petitioner, namely, Sri Prabin Bora, son of Sri Bupati Bora, resident of Hezari Gaon, is the owner of a plot of land measuring 1 Katha 5 Lechas and the structures standing thereon, covered by Dag No. 428, and Periodic Patta No. 146, and Dag No. 426, and Periodic Patta No. 143, located at Village-Hezari Gaon, Charaibahi Mouza, in the district of Jorhat.

The said plot of land was acquired by the respondents, No.5, 6 & 7 for the respondent No.1, 2 and 3 i.e. NHIDCL authorities, under the National Highways Act, 1956, sometime in the year 2012, for construction of 4 (four) lane National Highway No. 37.

Accordingly, the compensation amount for the land, Zirat and for other structures standing upon it, had duly been assessed by the respondent No. 6, who happens to be the Additional Deputy Commissioner (Land Acquisition) cum Competent authority for Land Acquisition (CALA), Jorhat.

Over the said plot of land, 4 (four) RCC shop rooms and a part of Assam type house was situated and for the structures standing thereon and Zirat, the

amount of compensation, which the petitioner herein is entitled to, was assessed at Rs. 50,21,953/-. But, the said assessment was wrongly included at Dag No. 440, and subsequently, the compensation amount was paid to the respondent No. 8 herein, namely, Sri Probin Bora, Son of Late Rajani Bora, of Hezari Gaon village.

Thereafter, the petitioner has made several approaches to the concerned authorities regarding such mistake made by the respondents No. 5, 6 & 7. But, the same failed to yield any result. Then being aggrieved, the petitioner has approached this Court by filing the present petition, seeking the reliefs as aforesaid."

Stand taken by the respondents:

Respondent No. 3

4. In the affidavit-in-opposition filed by the respondent No. 3, it has taken a stand that the Ministry of Road Transport and Highways had issued a Notification, vide No. S.O. 1856(E), dated 10.08.2011, under Section 3A of the National Highways Act, 1956, for the plot of land in question. And since no objection under Section 3C of NH Act, 1956, has been made to the competent authority, within a period of 21 (twenty one) days from the date of publication of the Notification under Section 3A of NH Act; the Notification under Section 3D of the NH Act was published. And subsequently, under the provision of Section 3G of the NH Act, the compensation amount for land and Zirat was assessed by the Competent Authority for Land Acquisition (CALA), Jorhat. And as per Notification under Section 3G of the NH Act, the NHIDCL had sanctioned and deposited the amount of compensation with CALA, and on such deposit being made, its role is over. But, subsequently, the said amount was disbursed to the

respondent No. 8 and for that, the CALA, Jorhat is solely responsible for such decision.

Respondent No. 5

5. In the affidavit-in-opposition filed by the respondent No. 5, it has taken a stand that the Lat Mandal of the concerned area has submitted 3G report in respect of the present petitioner, namely Probin Bora, S/o Sri Bupati Bora, of Hezari Gaon; and also in respect of Sri Probin Bora, son of Late Rajani Bora, of Hezari Gaon; in respect of the plot of land measuring Dag No. 440, and Periodic Patta No. 217. It is also stated that mistakenly, the compensation amount, which the petitioner is entitled to, was deposited in the name of the respondent No. 8. And when the said anomaly surfaced, the respondent No. 8 herein was asked to appear before the A.D.C. (Land Acquisition), and after his appearance, he prayed for a period of one month to refund the amount deposited in his account, which actually did not belong to him.

5.1 It is further stated in the affidavit that vide letter, dated 24.12.2015, the Branch Manager, SBI, Katakipukhuri Branch, was asked to retain the entire amount of compensation deposited in the account of the respondent No.8, namely, Probin Bora, S/o Rajani, until further orders; and that the Circle Officer of Jorhat West Revenue Circle, Jorhat, was also requested to enquire the matter and to submit a detailed report.

5.2 It is further stated in the affidavit that the authority had taken all the possible measures to recover the disbursed money from the respondent No. 8 herein, i.e., Probin Bora, S/o Rajani. Also, a Police case, being Pulibar P.S. Case No. 168/2016, under Section 406 IPC, was registered and after investigation, charge-sheet was submitted, vide charge-sheet No. 22/2017, dated 22.02.2017,

under Sections 406/420 IPC, against said Probin Bora, s/o Rajani, and the matter is sub-judice before the learned SDJM, Jorhat.

5.3 It is also stated in the affidavit that the petitioner herein has refused to accept the land and Zirat compensation entitled to him and for which, the compensation amount was deposited at the bank, as per direction of the learned District and Sessions Judge, Land Acquisition, Rehabilitation and Resettlement Authority, Jorhat, vide LA Ref Case No. 13/2022, which was registered on the basis of the complaint of the petitioner.

5.4. And with regard to the order passed by this Court on 29.08.2024, it is stated in the said affidavit that –

I. Yes, the petitioner was entitled for the compensation for structural damages.

II. Yes, the facts narrated in the FIR lodged by the then Assistant Commissioner, Jorhat are correct.

III. The compensation for structural amount has been disbursed to the Respondent No.8 as per 3G list in respect of dag No. 440 but the said structure was actually situated at Dag No. 426 & 428 which structure belongs to the petitioner."

Stand taken by respondent Nos. 5 & 6 in their Additional Affidavit:-

6. The respondent Nos. 5 & 6 have filed additional affidavit, stating that the steps are being taken for recovering structure compensation, amounting of Rs. 50,21,954/-, which was wrongly received by the respondent No. 8. And initially, the respondent No. 8 had agreed to refund the amount which was wrongly

received by him, but subsequently, he denied to return the same, for which, steps to recover the amount have been initiated under The Bengal Public Demands Recovery Act, 1913, vide letter No. JRA. 61/2015/317, dated 03.12.2024.

6.1 It is also stated in the additional affidavit that the compensation amount which the respondent No. 8 is entitled to, is Rs. 20,35,389/-, but in fact, he had received a sum of Rs. 63,45,534/-.

Respondent No. 8

7. The respondent No. 8 has also filed his affidavit-in-opposition, wherein, he has taken a stand that the amount of Rs. 50,21,954/- was deposited in his bank account for the land and structures owned by him and his brothers, which were acquired by the Government, after observing all the formalities; and that the petitioner herein has filed one suit, being Title Suit No. 68/2019, wherein, the present respondent has filed his written statement in the said suit, but later on, the said suit was withdrawn by the petitioner herein.

7.1 It is also stated in the affidavit-in-opposition that the respondent authorities have already referred the matter to the learned District and Sessions Judge, Jorhat, being Ref. L.A. No. 13/2022, and the petitioner could have agitated his grievance before the said Court and later on, the said case was withdrawn. It is further stated that the respondent authorities, for the reasons best known to them, had deposited the amount of Rs. 50,21,954/- in his account. Further it is stated that after observing all the formalities, the respondent authorities have duly assessed and sanctioned compensation for a sum of Rs. 63,45,533/-, including structure value, which has been deposited in his account; and that the petitioner has failed to make out a case for exercising

the extraordinary jurisdiction of this Court, under Article 226 of the Constitution of India.

Affidavit-in-reply of the petitioner:-

8. The petitioner has filed his reply to the affidavit-in-opposition filed by the respondent No. 8, denying the statements and averments made by the respondent No. 8 in his affidavit.

Stand of the respondent No. 8 in his Additional Affidavit:-

9. The respondent No. 8 has also filed an additional affidavit, stating that he was acquitted by the learned Trial Court, in G.R. Case No. 1708/2016, arising out of Pulibar P.S. Case No. 168/2016.

Respondent No. 9

10. In the affidavit-in-opposition filed by the respondent No. 9, it has taken a stand that the bank has received a letter, dated 24.12.2015, issued by the CALA, Jorhat, requesting the bank to retain/freeze the compensation amount in the bank account of the respondent No. 8. It is also stated that a sum of Rs. 63,45,533/- was credited in the account of the respondent No. 8, on 11.11.2015, and the same had already been systematically withdrawn by the respondent No. 8, prior to the receipt and acting upon the said official communication, on 24.12.2015.

Submission of the learned counsel for the petitioner:

11. Mr. Das, learned counsel for the petitioner submits that there is no dispute that the land of the petitioner was acquired by the CALA, Jorhat, after assessment of the compensation which the petitioner is legally entitled to, and

the National Highway Authority had deposited the compensation amount, as per 3G list. And as per the said list, the petitioner is entitled to compensation for the land, Zirat and structures, being a sum of Rs. 50,21,954/- (Rupees Fifty Lakhs twenty one thousand nine hundred and fifty four). But the CALA, Jorhat, has deposited the said amount in the bank account of the respondent No. 8, who, as per the affidavit filed by the respondent Nos. 5 & 6, is also entitled to compensation for a sum of Rs. 20,35,389/-, as per 3G list. He also submits that the respondent No. 8 has actually received a sum of Rs. 63,45,534/-, the fact, which has not been denied by the respondent No. 8. He also submits that the CALA, Jorhat, the respondent No. 6, has also not disputed depositing the sum of Rs. 50,21,954/- in the bank account of the respondent No. 8 herein, out of mistake.

11.1. Mr. Das, further submits that the land was acquired in the year 2012, and the petitioner has not been receiving the compensation amount till date. And only after an order being passed by this Court on 03.06.2026, regarding releasing a sum of Rs. 7,11,809/-, which was due to the respondent No. 8, when Mr. D. Nath, learned Additional Senior Government Advocate, who appeared for the respondent Nos. 5-6, had stated before this Court that the said amount may be released in favour of the petitioner herein; the petitioner herein had received the said amount.

11.2. Mr. Das also submits that the petitioner has been suffering mental agony for the compensation, which he is entitled to, for no fault of his and since the respondent authorities, more specifically, the respondent Nos. 5 & 6 have admitted their mistake in depositing the compensation amount belonging to the petitioner in the account of the respondent No. 8, this Court may dispose of this

petition by directing the respondent authorities to pay the remaining amount of compensation, which the petitioner is legally entitled to, subject, however, to adjustment of Rs. 7,11,809/-, which has already been paid to the petitioner, pursuant to the order of this Court, dated 03.06.2026, with interest.

11.3 In support of his submission, Mr. Das has referred to a decision of the Hon'ble Supreme Court in the case of **Ultra-Tech Cement Limited Vs. Mast Ram and Others, reported in (2025) 1 SCC 798**, especially, in paragraph Nos. 50, 51 and 52. He has also referred to 2 (two) more decisions, one of Karnatak High Court in the case of **Mrs. Mary John Vs. The State of Karnataka represented by its Principal Secretary, Department of Industries and others,** reported in **2014 SCC OnLine Kar 12251;** and the other of a co-ordinate bench of this Court in **Ethelwood Estate (P.) Ltd. Vs. State of Assam and Others,** reported in **2022 4 GLT 144.**

Submission of the learned counsel for the respondents:

12. Per contra, Mr. Nath, learned Additional Senior Government Advocate for the respondent Nos. 5 & 6, submits that it is a fact that out of mistake, the amount of compensation, which the petitioner is entitled to, was deposited in the account of the respondent No. 8. And when the said mistake was detected, the respondent No. 8 was called to the Office and he initially agreed to return the amount, but subsequently, he denied the same and now, for recovering the said amount from the respondent No.8, a Bakijai proceeding has also been initiated and the said proceeding is presently pending before the Court of the learned Additional Deputy Commissioner, Jorhat.

12.1. Mr. Nath also submits that in fact, the petitioner herein is entitled to Rs.

50,21,954/-, but the said amount was mistakenly deposited in the account of the respondent No. 8. He also submits that though the names of the father of the petitioner and the father of the respondent No. 8 are different, yet, the names of the petitioner and the respondent No. 8 are same and they also belong to the same locality.

12.2 Mr. Nath further submits that one FIR was also lodged against the respondent No.8 with the Pulibor Police Station, Jorhat, being Pulibor P.S. Case No. 168/2016, under Sections 406/420 IPC wherein, after investigation charge sheet was submitted against the respondent No. 8. He also submits that since all the parties are before this Court on equitable consideration, this Court may direct the respondent No. 8 to return the amount, which was mistakenly deposited in his account.

13. Mr. C. Baruah, learned Standing Counsel for the respondent Nos. 1-3, submits that the NHIDCL has already deposited the compensation as per 3G list and that it has nothing to do with disbursement of the same, as CALA has appropriate authority and if any mistake is committed, it is the CALA who has to rectify it, and not the respondent Nos. 1, 2 & 3.

14. Mr. P. Mahanta, learned counsel for the petitioner has raised the issue of maintainability of the present writ petition, in view of the decision of a Division Bench of this Court, in **Writ Appeal No. 299/2025**, wherein, it has been held that under Section 3G(5) of the NH Act, 1956, in case of any dispute regarding determination of the amount payable as compensation, the claimants have a right to have the issue decided/determined by an Arbitrator, to be appointed by the Central Government. And in case of any dispute over the determination of shares of the compensation amount amongst the claimants, the competent

authority, which, in this case, is the Additional District Commissioner; is required to refer the dispute to the Principal Civil Court of original jurisdiction, within the limits of whose jurisdiction the land is situated. And since there is dispute between the petitioner and the respondent No. 8, the Principal Civil Court has the jurisdiction to deal with the same.

14.1. Mr. P. Mahanta, also submits that the respondent No. 8 is innocent and no-way involved with the offence alleged, and that the land of the respondent No. 8 was also acquired and for the land and the structures standing thereon, to compensation amount was assessed and deposited in his account. And under circumstances, Mr. Mahanta has contended to dismiss this petition.

Reply of Mr. D. Das, learned counsel for the petitioner:

15. In reply to the submission of Mr. Nath and Mr. Mahanta, Mr. D. Das, learned counsel for the petitioner, submits that this petition is maintainable and the decision of Division Bench of this Court, in **Writ Appeal No. 299/2025**, is not at all applicable in this case. Mr. Das has also drawn the attention of this Court to the Order, dated 29.08.2024, of this Court and submits that this Court was pleased to direct the Assistant Commissioner, Land Acquisition, to file an affidavit, answering the following –

"**I. Whether the petitioner was entitled for compensation as claimed in the writ petition for structural damages.**

II. Whether the facts narrated in the FIR lodged by the aforesaid officer is correct, and

III. Whether the compensation amount which was meant for

disbursal to the petitioner has been disbursed to the respondent No. 8."

15.1. Mr. Das also submits that accordingly, the CALA, Jorhat, has filed affidavit and answered the aforementioned questions as under –

"**I. Yes, the petitioner was entitled for the compensation for structural damages.**

II. Yes, the facts narrated in the FIR lodged by the then Assistant Commissioner, Jorhat are correct.

III. The compensation for structural amount has been disbursed to the Respondent No.8 as per 3G list in respect of dag No.440 but the said structure was actually situated at Dag No. 426 & 428 which structure belongs to the petitioner."

15.2. And in view of the aforementioned admitted facts and also in view of the stand taken by the respondent Nos. 5 & 6, in their affidavits, Mr. Das has contended to pass appropriate orders.

Discussion and Analysis:

16. Having heard the submissions of the learned counsel for both the parties, this Court has carefully gone through the petition and the documents placed on record and also carefully gone through the decisions referred to by the learned counsels for both the parties.

17. The basic facts, herein this case, are not in dispute. The petitioner herein is the owner of a plot of land measuring 1 Katha 5 Lechas, with structures

standing thereon, covered by Dag No. 428, and Periodic Patta No. 146, and Dag No. 426, and Periodic Patta No. 143, located at Hezari Gaon, and the said plot of land was acquired for construction of 4 (four) Lane Highway, i.e., the National Highway No. 37. The amount of compensation was duly assessed by the CALA. And as per the 3G list, the petitioner herein is entitled to a sum of Rs. 50,21,954/-, being the compensation amount.

18. Admittedly, the aforesaid amount has not been given to the petitioner, except however, a sum of Rs. 7,11,809/-, which was given to the petitioner, in pursuant to the direction of this Court, vide Order, dated 03.06.2026, which is the amount actually due to the respondent No. 8; subject, however, to adjustment of the total entitlement of the petitioner, i.e., Rs. 50,21,954/-.

19. It is not in dispute that the respondent No. 8 is also the owner of a plot of land covered by Dag No. 440, Periodic Patta No. 217, situated at Hezari Gaon, under Charaibahi Mouza; which was also acquired by the respondent authorities for construction of four lane Highway, and the compensation amount for the same was assessed at Rs. 20,35,389/-. But, due to a mistake committed by the respondent Nos. 5 & 6, the compensation amount, which the petitioner is entitled to, was deposited in the account of the respondent No. 8; and the respondent No. 8 has received a sum of Rs. 63,45,534/-, instead of Rs. 20,35,389/-, which the respondent No. 8 was actually entitled to.

20. It also appears that the respondent No. 8 has filed one application before the ADC, for seeking time to refund the amount, but subsequently, he denied the same.

21. Though Mr. Mahanta, learned counsel for the respondent has raised the issue of maintainability of the present petition, based upon the decision of the

Division Bench of this Court in **Writ Appeal No. 299/2025,** yet this Court, having carefully gone through the decision, finds that in the said case it has been held that under Section 3G(5) of the NH Act, 1956, in case of any dispute regarding determination of the amount payable as compensation, the claimants have a right to have the issue decided/determined by an Arbitrator, to be appointed by the Central Government. But, in the instant case admittedly there is no dispute regarding determination of the amount payable as compensation. At least this is not the pleaded case of the petitioner, not even the case of the respondent No.8. Therefore, this Court is afraid that the proposition laid down in the said case would not come into his assistance. Mr. Das, learned counsel for the petitioner, has rightly pointed this out at the time of hearing and submitted with vehemence that this petition is maintainable. And under the given factual scenario, this court is inclined to record concurrence to the submission of Mr. Das.

22. It is well settled in catena of decisions of Hon'ble Supreme Court that though right to acquire, hold and dispose of property has ceased to be a fundamental right under the Constitution of India. Notwithstanding the same ceased to be a fundamental right yet, a person can be deprive of his property only by authority of law. It is a Constitutional right, by virtue of which affected person can claim fair compensation and also rehabilitation and also has the right to efficient and timely process.

22.1. Reference in this context can be made to a decision of Hon'ble Supreme Court in the case of **K.T. Plantation (P) Ltd. v. State of Karnataka** reported in **2011 (9) SCC 146,** (Constitution Bench), wherein, Hon'ble Supreme Court has held as under:-

"**166. Article 300-A, when examined in the light of the circumstances under which it was inserted, would reveal the following changes:**

***1*. Right to acquire, hold and dispose of property has ceased to be a fundamental right under the Constitution of India.**

***2*. Legislature can deprive a person of his property only by authority of law.**

***3*. Right to acquire, hold and dispose of property is not a basic feature of the Constitution, but only a constitutional right.**

***4*. Right to property, since no more a fundamental right, the jurisdiction of the Supreme Court under Article 32 cannot be generally invoked, aggrieved person has to approach the High Court under Article 226 of the Constitution.**

167. Arguments have been advanced before us stating that the concept of eminent domain and its key components be read into Article 300-A and if a statute deprives a person of his property unauthorisedly, without adequate compensation, then the statute is liable to be challenged as violative of Articles 14, 19 and 21 and on the principle of the rule of law, which is the basic structure of our Constitution. Further, it was also contended that the interpretation given by this Court on the scope of Articles 31(1) and (2) in various judgments be not ignored while examining the meaning and content of Article 300-A.

168. Article 300-A proclaims that no person can be deprived of his property save by authority of law, meaning thereby that a person cannot be deprived of his property merely by an executive fiat, without any specific legal authority or without the support of law made by a competent legislature. The expression "property" in Article 300-A confined not to land alone, it includes intangibles like copyrights and other intellectual property and embraces every possible interest recognised by law.

169. This Court in *State of W.B.* v. *Vishnunarayan and Associates (P) Ltd.* [(2002) 4 SCC 134], while examining the

provisions of the West Bengal Great Eastern Hotel (Acquisition of Undertaking) Act, 1980, held in the context of Article 300-A that the State or executive officers cannot interfere with the right of others unless they can point out the specific provisions of law which authorises their rights.

170. Article 300-A, therefore, protects private property against executive action. But the question that looms large is as to what extent their rights will be protected when they are sought to be illegally deprived of their properties on the strength of a legislation. Further, it was also argued that the twin requirements of "public purpose" and "compensation" in case of deprivation of property are inherent and essential elements or ingredients, or "inseparable concomitants" of the power of eminent domain and, therefore, of List III Entry 42, as well and, hence, would apply when the validity of a statute is in question."

22.2. And ultimately Hon'ble Supreme Court has concluded in paragraph No.221 as under:-

"**221. We, therefore, answers the reference as follows:**

……

……..……..

(*e*) Public purpose is a precondition for deprivation of a person from his property under Article 300-A and the right to claim compensation is also inbuilt in that article and when a person is deprived of his property the State has to justify both the grounds which may depend on scheme of the statute, legislative policy, object and purpose of the legislature and other related factors.

…….

……..."

22.3. Again in the case of **Kolkata Municipal Corporation v. Bimal Kumar Shah** reported in **Civil Appeal N0. 6466 OF 2024, arising out of**

SLP (C) NO. 4504 OF 2021, Hon'ble Supreme Court laid down seven sub-rights that form the real content of the right under Article 300A. Non-compliance takes the action outside the "authority of law":

1. Right to notice (State must inform the owner of intention to acquire).
2. Right to be heard (objections must be heard).
3. Right to a reasoned decision.
4. Acquisition only for public purpose.
5. Right to fair compensation/restitution/rehabilitation.
6. Right to efficient and timely process.
7. Right to conclusion (including actual vesting/possession).

22.4. In the case of **Ultra-Tech Cement Limited (Supra),** so referred by Mr. D. Das, learned counsel for the petitioner, in paragraph Nos. 50, 51 and 52, Hon'ble Supreme Court has held as under -

"**50. That time is of the essence in determination and payment of compensation is also evident from this Court's judgment in Kukreja Construction Co. v. State of Maharashtra 16 wherein it has been held that once the compensation has been determined, the same is payable immediately without any requirement of a representation or request by the landowners and a duty is cast on the State to pay such compensation to the land losers, otherwise there would be a breach of Article 300-A of the Constitution.**

51. In the present case, the Government of Himachal Pradesh as a welfare State ought to have proactively intervened in the matter with a view to ensure that the requisite amount towards compensation is paid at the earliest. The State cannot abdicate

its constitutional and statutory responsibility of payment of compensation by arguing that its role was limited to initiating acquisition proceedings under the MoU signed between the appellant, JAL and itself. We find that the delay in the payment of compensation to the landowners after taking away ownership of the subject land from them is in contravention to the spirit of the constitutional scheme of Article 300-A and the idea of a welfare State.

52. Acquisition of land for public purpose is undertaken under the power of eminent domain of the Government much against the wishes of the owners of the land which gets acquired. When such a power is exercised, it is coupled with a bounden duty and obligation on the part of the government body to ensure that the owners whose lands get acquired are paid compensation/ awarded amount as declared by the statutory award at the earliest."

22.5. It has also been held in the **Ultra-Tech Cement Limited (Supra),** that payment must be prompt; inordinate delay itself violates Article 300A.

22.6. Thus, what can be crystallized from the aforesaid discussion is that Article 300A (inserted by the 44th Amendment, 1978) states: "No person shall be deprived of his property save by authority of law." It is no longer a fundamental right (former Articles 19(1)(f) and 31 were deleted), but it remains a constitutional safeguard against arbitrary State action. The right to claim compensation is inbuilt in Article 300A, a law providing for no compensation or illusory compensation can be challenged. Public purpose is a precondition. The law and its application must be just, fair and reasonable and is subject to judicial review under Articles 14 and 300A.

23. Now, adverting to the facts herein this case this Court finds that though the respondent No.1, 2 and 3 have deposited the compensation with the

respondents No.4, 5 and 6. However, respondent No.6, CALA, Jorhat had mistakenly (alleged) deposited the same in the account of the respondent No.8, on 11.11.2014. And indisputably the respondent No.8 has withdrawn the entire amount. Though the respondent No.6 had written a letter to the respondent No.9 on 24.12.2015 to retain/freeze the said amount of compensation deposited mistakenly, yet before receipt of the said letter, the respondent No.8 had withdrawn the same.

24. It is an admitted position that the petitioner herein has been deprived of the compensation amount Rs. 50,21,954/-, which was deposited with the respondent No.6 by the respondent No.1,2 and 3 as per 3G list, except however the amount of Rs. 7,11,809/-, which amount was due to the respondent No. 8, and was lying with the respondent No.6, as per order passed by this Court on 03.06.2026, when Mr. D. Nath, learned Additional Senior Government Advocate, for the respondent Nos. 5-6, had made a statement before this Court that the said amount may be released in favour of the petitioner herein. The remaining amount, which the petitioner is entitled to, is yet to be paid. Indisputably, the land of the petitioner was acquired in the year 2012; the respondent No.1, 2 and 3 had deposited the compensation amount with CALA, Jorhat, the respondent No. 6, before, 11.11.2015. Since then more than one decade elapsed. The petitioner is thus, deprived of his compensation amount, and also he is subjected to considerable mental agony. He is compelled him to run from pillar to post till date.

25. Thus, application of the ratios, laid down by the Constitutional Bench of Hon'ble Supreme Court of India in the case of **K.T. Plantation (P) Ltd. (supra),** and also in the case **Bimal Kumar Shah(supra)** and in the case of **Ultra-Tech Cement Limited (Supra)** to the given factual matrix, as

discussed in the foregoing para, clearly reveals that the constitutional right of the petitioner, to receive compensation, and also his right to efficient and timely process of the same, for acquiring his land and structures thereon, as is inbuilt in Article 300A, is violated. The petitioner has succeeded in demonstrating violation of his right under Article 300A of the Constitution of India and to get the same redressed by invoking jurisdiction of this Court under Article 226 of the Constitution of India.

26. Though Mr. Nath, the learned Additional Senior Government Advocate has put forward an explanation that the said amount was mistakenly deposited in the account of the respondent No. 8, as the names of the petitioner and the respondent No. 8 are same and they also belong to the same locality, though however, their fathers' names are different and on equitable consideration, this Court may direct the respondent No. 8 to return the amount, which was mistakenly deposited in his account, yet, the said submissions of Mr. Nath left this Court unimpressed in as much as the father's name of the petitioner and the respondent No.8 are different. Admittedly, Affidavit dated 13.09.2024 of respondent No.5, para No. 4 & 5) and the Dag number and Patta number of the land of the petitioner (Dag No. 426 and 428 Patta No. 143 and 136 and the respondent No.8 (Dag No. 440 and Patta No. 217) are also different. The quantum of land the structures thereon were also different.

Conclusion:

27. Under the given factual and legal matrix and in view of the admission made by the respondent authorities, more particularly, by the respondent Nos. 5 & 6, and also by the respondent Nos. 8 & 9, this Court finds sufficient merit in this petition. Accordingly, the same stands allowed with the following

observation and directions –

(i) By a mandamus of the Court, the respondent Nos. 5 & 6 are directed to pay the compensation amount, which the petitioner is entitled to, subject however to adjustment of the amount already paid to him i.e. Rs. 7,11,809/ within a period of **3 (three) months,** from the date of receipt of certified copy of this judgment and order.

(ii) The respondent Nos. 5 & 6 shall also pay interest @ 12% per annum upon the entire amount, from the date of publication of the Notification under Section 3G of the NH Act, 1956; till the payment is made.

(iii) The respondent Nos. 5 & 6 shall be at liberty to recover the amount from the respondent No. 8, in whose account, admittedly, the amount has been mistakenly deposited.

(iv) Appropriate legal action shall be initiated against those officials who are responsible for depositing the amount mistakenly in the account of the respondent No. 8, after conducting an enquiry by an officer, not below the rank of Additional Chief Secretary to the Government of Assam.

28. The petitioner shall obtain a certified copy of this judgment and order and place the same before the respondent No.5 and 6, within a period of one week from today. The parties have to bear their own costs.

JUDGE

Comparing Assistant