GAHC010125902015

2024:GAU-AS:11924

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

**Case No. : WP(C)/7995/2015**

DIPENDRA ADHIKARI and 7 ORS.
S/O LT. SRI UPENDRA ADHIKARI and LT. SMT. CHINMOYEE ADHIKARI AND GRAND SON OF LT. SRI RADHIKA NANDA CHOUDHURY and LT. SMT. SAROJ KUMARI CHOUDHURY, R/O H/NO.129, ADHIKARI HOUSE, CHINMOYEE ADHIKARI PATH, BYE LANE NO.4, GOPINATH NAGAR, GHY-16, DIST- KAMRUP METRO, ASSAM

2: RAJIB CHERAIN
S/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI (CHERIAN) AND GRAND SONS AND DAUGHTER OF LATE SRI UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND GREAT GRAND-SONS OF LATE RADHIKA NANDA CHOUDHURY AND LATE SMT. SAROJ KUMARI CHODHURI

3: SANDEEP CHERIAN
S/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI (CHERIAN) AND GRAND SONS AND DAUGHTER OF LATE SRI UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND GREAT GRAND-SONS OF LATE RADHIKA NANDA CHOUDHURY AND LATE SMT. SAROJ KUMARI CHODHURI

4: GAYATRI CHERIAN
D/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI (CHERIAN) AND GRAND SONS AND DAUGHTER OF LATE SRI UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND GREAT GRAND-SONS OF LATE RADHIKA NANDA CHOUDHURY AND LATE SMT. SAROJ KUMARI CHODHURI

5.1: ON THE DEATH OF MANIKA ADHIKARI
HER LEGAL HEIRS
MRS. BANASHREE BOSE BANERJEE
W/O SRI CHAMPAK BANERJEE

GOPINATH NAGAR

129 ADHIKARI HOUSE
GUWAHATI-781016
DIST KAMRUP(M)
ASSAM

5.2: MRS. JAYASHREE BOSE DAS
W/O SRI AVINANDAN DAS

GOPINATH NAGAR
129 ADHIKARI HOUSE
GUWAHATI-781016
DIST KAMRUP(M)
ASSAM

6: NAMITA ADHIKARI
W/O LATE JOTIRMOY KAKATI
DAUGHTER OF LATE SRI UPENDRA ADHIKARI AND LATE SMT. CHINMOYEE ADHIKARI AND GRAND DAUGHTER OF LATE SRI RADHIKA NANDA CHOUDHURY AND LATE SMT. SAROJ KUMARI CHOUDHURY

7: MRS. ANIMA ADHIKARI
W/O MR. PALLAB BOSE
D/O LATE SRI UPENDRA ADHIKARI AND LATE SMT. CHINMOYEE ADHIKARI AND GRAND DAUGHTER OF LATE SRI RADHIKA NANDA CHOUDHURY AND LATE SMT. SAROJ KUMARI CHOUDHURY
NOS. 2 TO 6 AT PRESENT RESIDENTS OF NEAR ISKON MANDIR
ULUBARI
GUWAHATI 781007
BEING REPRESENTED BY APPLICANT NO. 1 SRI DIPENDRA ADHIKARI
BEING POWER OF ATTORNEY HOLDE

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, REVENUE DEPTT., DISPUR, GHY-6

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI 781006

3:THE REGISTRAR GENERAL OF THE HONBLE GAUHATI HIGH COURT
MAHATMA GANDHI ROAD
GUWAHATI 781001

4:THE DEPUTY COMMISSIONER CUM LAND ACQUISITION OFFICER
KAMRUP (M)

MAHATMA GANDHI ROAD
PANBAZAR
GUWAHATI 78100

**Advocate for the Petitioner** : MR. B M CHOUDHURY, MR. M ALAM(P-1),MAYUR DAS(P-1),MR B M DEKA (P-1),J ISLAM,MR. M U MONDAL,MR. S BANIK,MR. K P PATHAK,MR. P KALITA,MRS. A BHATTACHARYYA,MR. P N GOSWAMI,MR. R R Gogoi,MR. K P PATHAK

**Advocate for the Respondent** : SC, FINANCE, GA, ASSAM,MR. T J MAHANTA,MR. P P DUTTA,SC, REVENUE

**BEFORE**
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**
**HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA**

**ORDER**

**12.11.2026**

(M. Zothankhuma, J)

1. Heard Mr. B.M. Deka, learned counsel for the petitioners. Also heard Mr. R. Borpujari, learned Standing Counsel appearing for the Revenue Department, Government of Assam and Mr. T.J. Mahanta, learned Senior Advocate for the respondent no.3 assisted by Mr. T. Gogoi, learned counsel.

2. The petitioners' case in brief is that despite the acquisition of the 3 plots of lands of the petitioner no.1, which had devolved to him through his mother and from the original pattadar, i.e. his grandmother late Smt. Saroj Kumari Choudhury and had been acquired by the respondents under the Land Acquisition Act, 1894 (hereinafter referred to as the "LA Act, 1894"), no compensation has been given to the petitioners.

3. The petitioners' counsel submits that petitioner no. 1 is the grandson of the original pattadar late Saroj Kumari Choudhury, while petitioners no. 2 to 7 are being represented by petitioner no.1, being their power of attorney holder. The petitioners' counsel submits that the Revenue Department, Government of

Assam, vide it's Notifications no. RLR.283/66/18 and RLR.283/66/24, both dated 12.02.1968, which was published in the gazette notification dated 21.02.1968, notified the lands needed for a public purpose under Section 4 of the LA Act, 1894, with the following specific coordinates :

**Notification no. RLR.283/66/18 dated 12.02.1968**

North - Dag Nos. 3653, 3651/ga

South - Dag Nos.4110. 3652, 3651/ka, 3653. ,

East - Dag Nos. 3651/ga, 3663, 3652, 3651/ka,

West - Dag Nos.3654 and 3651/ga.

**Notification no. RLR.283/66/24 dated 12.02.1968**

North - Dag Nos. 3626/kha, 4080, 3627, 4081, 4085

South - Dag Nos.3623, 3620, 3655, 3436 and 3485

East - Dag Nos. 4082, 3654, 3436

West - Dag Nos.3627, 3625 and 4080

The petitioners' counsel submits that dag nos. 3651/ga, 3651/ka and 3626/kha belong to the petitioners.

4. The petitioners' counsel submits that despite the lands being acquired by the respondents for the purpose of construction of Judges' quarters of the Gauhati High Court and for construction of road to the said quarters, no compensation has been paid to the petitioners till date. He also submits that the petitioner no.1 had submitted representations from May, 2012 to the office of the Deputy Commissioner, Kamrup (Metro), which have however not been answered to till date. As such, petitioner no.1 was constrained to file the present writ petition on 10.12.2015. The petitioners' counsel accordingly prays

that this Court should issue a direction to the respondent authorities, to pay adequate compensation, for acquisition of the petitioners lands reflected in the Notification no. RLR.283/66/18 dated 12.02.1968 and Notification no. RLR.283/66/24 dated 12.02.1968, which has been acquired for the purpose of construction of Judges' quarters of the Gauhati High Court and for construction of a road to the said quarters.

5. Mr. R. Borpujari, the learned Standing Counsel for the Revenue Department submits that the land for construction of the Judges' quarters at Guwahati and for the road in question were acquired, vide declaration no. RLR.262/88/23 dated 01.06.1990 under Section 6(I) of the LA Act, 1894, where the recorded pattadar was the River Steamer Navigation Company /CIWTC. Further, as reported by the Deputy Commissioner, Kamrup (M), land measuring 5.43 Are covered by Government dag no.1185 and land measuring 6.82 Are covered by dag no.1373 of the said village Sahar Guwahati had been allotted for construction of staff quarters for Grade-IV employees of the Gauhati High Court, vide Government letter no. RSS.779/2008/25 dated 23.06.2009 and letter no. KRS.438/2008/17 dated 15.07.2009, where quarters of Grade-IV employees of the High Court are found in existence. He also submits that as reported by the Deputy Commissioner, Kamrup (M), that land measuring 290.97 Are (21 bighas 3 kathas 15 lechas) covered by dag no. 411 of patta no.1 of 45 years Grant under Ulubari Mouza has been corrected in the revenue records in favour of the Gauhati High Court. Further, as reported by the Deputy Commissioner, Kamrup (M), the said land has been bounded by erecting boundary walls. The land acquisition estimate amount of Rs.70,15,984/- and Rs.56,77,015/- totaling an amount of Rs.1,26,92,999/- for the patta land, had been received from the Registrar (Admn), Gauhati High Court, which has been kept in the SBI under the

Head of Account "8443" R/D. He submits that as per the report of the Deputy Commissioner, no land of the petitioners has been acquired for construction of Judges' quarters of the Gauhati High Court and the road to the said quarters.

6. Mr. T.J. Mahanta, learned Senior Counsel for respondent no. 3 submits that the order dated 21.07.2017 passed by this Court reflects the submission made by the earlier counsel for respondent no.3, to the effect that an amount of Rs.70,15,984/- had been deposited with the Deputy Commissioner-cum-Collector, Kamrup by respondent no. 3 on 19.09.2002 and thereafter, a further amount of Rs.56,77,000/- was deposited on 16.05.2008 for making payment of compensation to the land owner on account of acquisition of the land. As such, respondent no. 3 has no further role to play in the present case.

7. We have heard the learned counsels for the parties.

8. The stand of the State respondent, i.e, respondent no.1 shows that there are disputed questions of facts, inasmuch as, the compensation claimed by the petitioners for acquisition of land on which Judges' Quarters and road have been built, has been disputed by the respondent no.1 in paragraph no.5 of the affidavit submitted on 03.04.2023, which is as follows:

> "5. That in regard to the averments made in paragraph.3 of the of the writ petition, the deponent denies the same. The deponent begs to state that as per report received from the Deputy Commissioner, Kamrup (Metro), land measuring 21 Bighas-3 Kathas-15 Lechas (290.97 Are) covered by Dag No. 3616 (Old)/411 (New) of Patta No.- 1 of 45 years Grant was acquired for construction of Judges Quarter at Village-Sahar Guwahati 6th Part under Ulubari Mouza vide Declaration No. RLA.262/88/23 dated 01.06.1990 under section 6 (1) of the Land Acquisition Act, 1894 where the recorded pattadar is River Steamer Navigation Company/CIWTC. Further, as reported by the Deputy Commissioner, Kamrup (M), land measuring 5.43 Are covered by Govt. Dag No. 1185 and land measuring 6.82 Are covered by Dag No. 1373 of the said Village-Sahar Guwahati has been allotted for construction of Staff Quarter of Grade-IV employees of the Hon'ble Gauhati High Court vide Govt. Letter No. RSS.779/2008/25 dated

23.06.2009 and letter No.- KRS.438/2008/17 dated 15.07.2009, where quarters of Grade-IV employees of the Hon'ble High Court are found in existence. It is also reported by the Deputy Commissioner, Kamrup (M) that the land measuring 290.97 Are (21 Bighas-3 Kathas-15 Lechas) covered by Dag No. 411 of Patta No.-1 of 45 years Grant under Ulubari Mouza has been corrected in the revenue records in favour of Hon'ble Gauhati High Court. Further, as reported by the Deputy Commissioner, Kamrup (M), the said land has been bounded by erecting boundary wall. The Land Acquisition Estimate Amount of Rs.70,15,984/- and Rs.56,77,015/- totalling an amount of Rs. 1,26,92,999/- for the patta land has been received from the Registrar (ADMN), Gauhati High Court, Guwahati which has already been kept in the SBI under the head of Account "8443" R/D. Moreover, the land belonging to River Steamer Navigation Company / CIWTC acquired for construction of Judges Quarter vide Declaration No. RLA. 262/88/23 dated 01.06.1990 and Govt. land allotted for the Quarters of Grade-IV Staff of Hon'ble Gauhati High Court are as follows:

| SL No. | Dag No. | Patta No. | Area | Remarks |
|---|---|---|---|---|
| 1. | 411 | No.-1 of 45 years Grant | 290.97 Are (21B-1K-16L) | |
| 2. | 1111 | Govt | 4.82 (0B-1K-16L) | A Namghar exists in the plot |
| 3. | 1185 & 1373 | Govt | 12.25 Are (0B-4K-11.5L) | |

The Deputy Commissioner (M) in the report has stated that against the claim of the petitioner, no land of the petitioner has been acquired for construction of Judges

Quarter of the Hon'ble Gauhati High Court."

9. Paragraph no.5 of the affidavit of the respondent no.1 dated 03.04.2023, having categorically stated that the land claimed by the petitioners is not the land acquired for constructing the High Court Judges' Quarters shows that there are disputed questions of fact. As such, this Court is not inclined to go further into the matter, as the grievance of the petitioners would require evidence to be adduced by the parties before a Civil Court. In any event, it is surprising to learn that the petitioners have approached this Court only in the year 2015, when their lands were allegedly acquired in the year 1968. Further, it is apparent from the pleadings made in the writ petition that the original pattadar of the land, i.e. the grandmother of the petitioner no.1 and the mother of the petitioner no.1 had not made any claim for compensation for the said lands. In any event, as the land claimed by the petitioners in paragraph 3 of the writ petition is not the land on which the Judges' Quarters have been constructed, as has been stated by the respondent no.1, we are not inclined to consider the present writ petition any further.

10. The writ petition is accordingly dismissed.

**JUDGE** **JUDGE**

**Comparing Assistant**