GAHC010169332026

2026:GAU-AS:16334

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

Case No. : WP(C)/4345/2026

MOKTAR ALI BORBHUYA
S/O - LATE JALAL UDDIN, RESIDENT OF VILLAGE - SULTANI (MADHABPUR), P.S. RAMNATHPUR, DISTRICT - HAILAKANADI, ASSAM, PIN- 788151.

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF LAND REVENUE AND DISASTER MANAGEMENT, DISPUR, GUWAHATI - 781006, ASSAM

2:THE DISTRIC COMMISSIONER
HAILAKANDI
DIST. - HAILAKANDI
ASSAM
PIN 788151

3:THE ADDITIONAL DISTRICT COMMISSIONER (REVENUE)
CUM COMPETENT AUTHORITY FOR LAND ACQUISITION
DHEMAJI
HAILAKANDI
ASSAM
PIN -788151

4:THE CIRCLE OFFICER
KATLICHERRA REVENUE CIRCLE
DIST. HAILAKANDI
ASSAM
PIN- 788151.

5:AKBAR ALI BORBHUYAN

S/O - LATE JALAL UDDIN
RESIDENT OF VILLAGE - SULTANI MADHABPUR
P.S. - RAMNATHPUR
DISTRICT - HAILAKANADI
ASSAM
PIN - 788151

6:ISHAN ALI BORBHUYAN
S/O- LATE JALAL UDDIN
RESIDENT OF VILLAGE - SULTANI (MADHABPUR)
P.S. RAMNATHPUR
DISTRICT - HAILAKANADI
ASSAM
PIN 78815

Advocate for the Petitioner : MR I RAFIQUE, MRS S A CHOUDHURY,CHONBEN Z YANTHAN,MS A AFREEN

Advocate for the Respondent : GA, ASSAM, MR. A K HANNAN(R5,6),MR M J QUADIR(R5,6),SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 06.11.2026

1. Heard Mr. C.Z. Yantham, learned counsel for the petitioner. Also heard Mr. S Dutta, learned Standing Counsel, Revenue and Disaster Management Department for respondent No. 1; Mr. H.K. Hazarika, learned Junior Government Advocate, Assam for respondent Nos. 2, 3, and 4.

2. It is the case of the petitioner that he is the exclusive owner of a plot of land measuring 2 Bighas, covered by Dag No. 243/315 (old) / 340 (new) under Patta No. 4, situated at village Sulatani, Katlicherra Revenue Circle, District Hailakandi. According to the petitioner, the said land was purchased by him by way of a registered Sale Deed bearing No.31/1995 from its erstwhile owner, and since the date of purchase, he is in

continuous possession of the subject plot by paying land revenue and having it mutated in his name in respect of the land in question.

3. It is the further case of the petitioner that a land acquisition process was initiated at the behest of requiring department, i.e., Ministry of Road Transport and Highways, Government of India, for a project, 'Construction of ROB etc. in replacement of existing LC No. KB-28' of National Highway-06 on the stretch of land from Km 62.8 to Km 63.8 (Manipur Bagan to Jamira Section) in the district of Hailakandi in the State of Assam.

4. The land in question has been acquired and following a notification dated 08.04.2025 published under Section 3D(2) of the National Highways Act, 1956 in the official gazette, the land vested absolutely in the Central Government, free from all encumbrances.

5. Subsequent to the notification dated 08.04.2025, the petitioner came to learn that respondent Nos. 5 and 6 had also staked their claim in respect of the subject plot and made attempts to withdraw the compensation amount assessed for the subject plot.

6. Situated thus, the petitioner submitted an application before the respondent No. 3, i.e., the Competent Authority of Land Acquisition (CALA), appointed under Section 3(a) of the National Highways Act, 1956 for the project, for referring the dispute to the Principal Judge of Original Jurisdiction.

7. The petitioner has approached this Court by way of the instant writ petition contending that after the application was submitted by the petitioner before the respondent No. 3 on 25.06.2026, it became incumbent upon the respondent No. 3 to refer the dispute to the decision of the Principal Civil Court of original jurisdiction, as per the provisions of

Section 3H(4) of the National Highways Act, as the dispute pertains to the apportionment of the compensation amount between the petitioner and proforma respondent Nos. 5 and 6. Alleging that even after submission of such application, no action was taken and the petitioner has approached this Court.

8. The learned counsel for respondent Nos. 5 and 6, on the other hand, submits that no material has been produced by the petitioner either before this Court or before the CALA, to prima facie show that the petitioner is the owner of such land and therefore, the present writ petition is liable to be dismissed.

9. The learned counsel for the respondent further submits that while filing the application, there was no specific averment for reference of the said dispute to the Principal Civil Judge of Original Jurisdiction.

10. The learned counsel representing CALA submits that, in terms of Section 3H(4), the competent authority shall be under bounden duty to refer the matter to the Principal Civil Judge of Original Jurisdiction.

11. This Court is also of the opinion that the matter pertains to dispute relating to the apportionment between the petitioner and respondent Nos. 5 and 6.

12. That being the position, it is incumbent upon respondent No. 3 to refer the dispute to the decision of the Principal Civil Court of Original Jurisdiction, in terms of Section 3H(4) of the National Highways Act. Therefore, the argument of the learned counsel for respondent Nos. 5 and 6, that a fresh hearing be directed to be taken by the CALA, cannot be sustained, inasmuch as after the determination of the compensation, the competent authority shall become *functus officio*.

13. That being the position, the present writ petition is disposed of

permitting the petitioner to file an appropriate application seeking reference of his claim for the decision of the Principal Civil Court of Original Jurisdiction, within a period of two weeks from today.

14. In the event such application is filed within the aforesaid period, the competent authority shall refer the dispute to the Principal Civil Court of Original Jurisdiction, as per the provision of Section 3H(4) of the National Highways Act.

15. During this period, respondent No. 3 shall not release the compensation amount determined under Section 3G(1) of the National Highways Act, to any person or to any of the parties.

16. This disposes the writ petition.

JUDGE

Comparing Assistant