GAHC010187162026

2026:GAU-AS:15311

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

WP(C)/5295/2025

HIREN SENSUA BARUAH
S/O LATE KHAGEN BARUAH
R/O THOWRA JEPISAGIA
P.O. RAJMAL AND P.S. DEMOW
DIST. SIVASAGAR
ASSAM
PIN CODE- 785672.

VERSUS

THE STATE OF ASSAM 3 ORS.
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI
PIN CODE- 781006.

2:THE DISTRICT COMMISSIONER

SIVASAGAR
DIST.SIVASAGAR
ASSAM

3:THE CO-DISTRICT COMMISSIONER

DEMOW P.O. AND P.S. DEMOW
DIST. SIVASAGAR
ASSAM

4:THE CIRCLE OFFICER

DEMOW REVENUE CIRCLE

P.O. AND P.S. DEMOW
DIST. SIVASAGAR
ASSAM

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioner(s): Mr. UK Goswami

Advocate for the respondent(s): Mr. TR Sarma
For respondent No.5
Mr. J Handique
Government Advocate, Assam

Date on which Judgment is reserved: NA

Date of Pronouncement of Judgment : **09.10.2026**

Whether the Pronouncement is of the : Yes
Operative Part of the Judgment

Whether the Full Judgment has been : No
Pronounced

JUDGMENT & ORDER(ORAL)

Heard Mr. U.K. Goswami, the learned counsel appearing on behalf

of the petitioner. Also heard Mr. J Handique, the learned counsel who appears on behalf of the Competent Authority of Land Acquisition (for short, the CALA) and Mr. TR Sarma, the learned counsel, who appears on behalf of the newly impleaded respondent No.5.

2. Mr. TR Sarma, the learned counsel appearing on behalf of the newly impleaded respondent No.5 submits that the respondent No.5 has filed an objection before CALA and it is on that ground the petitioner has not been disbursed the compensation.

3. The learned counsel for the respondent No.5 submits that the respondent No.5, taking into account the scope of the present proceedings would not like to file any affidavit-in-opposition.

4. From the materials on record, it is apparent that on one hand, the petitioner herein claims that the petitioner is entitled to the compensation on the basis of the petitioner's name appearing in the Notification under Section 3(A) as well as under Section 3(D) of National Highways Act, 1956 (for short, *the Act of 1956*).

5. On the other hand, it is the case of the respondent No.5 who had submitted an application before the CALA that the respondent No.5 had entered into an agreement for sale and apart from that is in possession of the land in question. 6. These are questions of dispute which this Court under Article 226 of the Constitution cannot decide.

7. This Court further takes note of that Section 3H of the Act of 1956 is a Code in itself for the purpose of disbursal of the compensation. In terms with Section 3H(1) of the Act of 1956, it is the requirement of the Central Government to deposit the compensation as adjudged in terms with Section 3G(1) of the Act of 1956.

8. The CALA has been authorized under Section 3H(3) of the Act of 1956 to decide the question of entitlement as well as the apportionment of the amount. However, if the questions of entitlement and apportionment are of complex nature, it is the duty of the CALA to refer the dispute to the Principal Civil Court of Original Jurisdiction, within whose jurisdiction the land has been acquired.

9. In this regard, this Court finds it relevant to take note of the judgment of the Supreme Court in the case of ***K Venkataswamy and Others Vs. Gowramma and Another,*** reported in ***2026 SCC OnLine SC 1487***, wherein the Supreme Court explained the scope and ambit of Section 3H of the Act of 1956. Paragraph Nos.22 along with sub-paragraphs of the said judgment being relevant are reproduced hereinunder:-

> "*22. The consequence of the impugned reasoning is that the High Court has, in substance, sat in review over its own earlier order, notwithstanding the fact that the remand order had attained finality inter partes. Once the remand order dated 9th March 2012 was accepted by the parties and was not subjected to any further challenge, the directions contained therein became binding upon both the parties as well as the Reference Court. The proceedings thereafter were necessarily required to be conducted*

within the four corners of the remand directions.

Scope of reference under Section 3H of NH Act:-

22.1. At this stage, it becomes necessary to examine the true scope and ambit of Section 3H of the National Highways Act, 1956. Since the controversy in the present appeal turns upon the interpretation of subsection (4) thereof, the relevant provisions are extracted below:—

*"**3H. Deposit and payment of amount.—** (1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.*

(2) As soon as may be after the amount has been deposited under subsection (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated…"

"... 22.2. Section 3H was introduced by Act 16 of 1997 as part of the comprehensive legislative framework governing acquisition of land for National Highways. While the amendment sought to facilitate expeditious acquisition for development of national highway infrastructure, it simultaneously recognised the corresponding right of persons deprived of

their property to receive just compensation.

22.3. The scheme of Sections 3G and 3H is, therefore, complementary. Section 3G provides for determination of the amount payable upon acquisition, whereas Section 3H

prescribes the mechanism for its deposit and disbursement. Under sub-section (2), the competent authority is under a statutory obligation to disburse the compensation to the person or persons entitled thereto. Where rival claims are raised, sub-section (3) casts a further duty upon the competent authority to determine, in its opinion, the persons entitled to receive the compensation and the extent of their respective shares.

22.4. Recognising, however, that disputes of a more complex nature may arise, Parliament enacted sub-section (4). It provides that where any dispute arises either regarding the apportionment of the compensation or regarding the person to whom the compensation, or any part thereof, is payable, the competent authority shall refer the dispute to the principal civil court of original jurisdiction within whose territorial jurisdiction the acquired land is situated.

22.5. The expression "any person to whom the amount... is payable" cannot be read in isolation or assigned a narrow meaning. The entitlement to receive compensation necessarily flows from the legal right over the acquired property immediately prior to its acquisition. Consequently, where rival claimants assert competing rights to the acquired land, the determination of the person entitled to receive compensation inevitably requires an adjudication of the underlying claim of title. Such an inquiry is incidental and integral to the jurisdiction conferred under Section 3H(4).

22.6. We are, therefore, unable to concur with the view taken by the High Court that the Reference Court lacks jurisdiction to examine disputes relating to title. To accept such an interpretation would render the expression "person to whom the amount is payable" otiose and substantially defeat the object of the reference contemplated under Section 3H(4). A reference to the principal civil court is not intended to be a mere ministerial purpose of dividing the compensation amongst claimants. Its purpose is to secure a judicial determination of the person lawfully entitled to receive the compensation where such entitlement itself is disputed.

22.7. The jurisdiction exercised by the Reference Court under Section 3H(4) is, therefore, wide enough to incidentally determine questions of title insofar as such

determination is necessary for deciding the person entitled to the compensation arising out of the acquisition. Any contrary interpretation would frustrate the legislative scheme and compel parties to simultaneously pursue independent civil suits for declaration of title, thereby defeating the very object of referring the dispute to the principal civil court."

10. From a perusal of the above-quoted paragraphs of the said judgment, it can be seen that while deciding the said dispute, the Principal Court of Original Jurisdiction for the purpose of deciding the entitlement and as well as the apportionment of the compensation can also go into the question of title and thereupon decide the same.

11. Considering the present dispute, this Court, therefore, disposes of the instant writ petition with the following observations and directions:

(i). The dispute between the petitioner and the newly impleaded respondent No.5 as regards the compensation payable for the land ad measuring 0.075 hectares under Dag No.827, Patta No.30 under Village Thowra No.1, Japisagia in Demow Revenue Circle, *insofar as* the question of entitlement and/or apportionment of the amount be referred by the respondent No.3 or the CALA to the Court of the learned District Judge, Sivasagar.

(ii). Upon reference being made to the learned District Judge, Sivasagar, the learned Court shall decide the same taking into account the principles so laid down by the Supreme Court in the case

of ***K.Venkataswamy***, (supra), as well as in terms with Section 3H(4) of the Act of 1956.

(iii). The CALA/the Co-District Commissioner, Demow, before whom the amount has been disbursed by the Central Government, in respect to the land in question shall disburse the amount determined in respect to the land in question to the Court of the learned District Judge, Sivasagar so that upon the decision being taken by the learned District Judge, Sivasagar, the amount be disbursed, by the learned District Judge, Sivasagar.

(iv). No costs.

JUDGE

Comparing Assistant