

GAHC010013792017



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

Case No. : WP(C) 1068/2017

1:GHANASHYAM CHETRY
S/O LT. TIKA RAM CHETRY, R/O LANKA TOWN, W/O NO.8, MOUZA, P.O. and
P.S. LANKA, DIST- HOJAI, ASSAM, PIN-782446

VERSUS

1:NATIONAL HIGHWAY AUTHORITY OF INDIA and 4 ORS.
REP. BY THE CHAIRMAN, G 5and6, SECTOR 10, DWARKA, NEW DELHI-75

2:THE COMMISSIONER
NORTH ASSAM DIVISION
TEZPUR AND ARBITRATOR
N.H. -4 LANE OF NAGAON AND MORIGAON DISTRICT
TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

3:THE COLLECTOR CUM DY. COMMISSIONER
NAGAON
DIST- NAGAON
ASSAM
PIN-782001

4:THE ADDL. DY. COMMISSIONER L.A.
NAGAON
DIST- NAGAON
ASSAM
PIN-782001

5:THE DY. COMMISSIONER
HOJAI
DIST- HOJAI

ASSAM
PIN-78243

Advocate for the Petitioner : MRM R ADHIKARI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 16.09.2020

Heard Mr. B. Chakraborty, learned counsel for the petitioner. Also heard Mr. D. Deka, learned standing counsel for the NHAI, respondent no.1 and Mr. T.C. Chutia, learned Additional Senior Govt. Advocate for the State respondents no.2, 3, 4 and 5.

The learned counsel for the petitioner has referred to the judgment dated 19.04.2012 passed by the learned District Judge, Nagaon in Misc.(J) Case No.116/2009, wherein it has been recorded that "on being aggrieved with the compensation fixed against the land the OP Nos. 2 to 5 along with 28 others jointly preferred an appeal before the Arbitrator and the Commissioner, NAD". It is submitted that the petitioner herein was one of the appellants before the Arbitrator. On a perusal of the order dated 25.09.2008 passed by the Commissioner, North Assam Division, Tezpur cum Arbitrator for NH-4-Lane of Nagaon and Morigaon District in Case No.04/2008, it is seen that reference is made to the name of the petitioner Ghana Shyam Chetri. However, from the judgment rendered in Misc.(J) Case No.116/2009, only the name of legal representatives of Bhim Prasad Upadhyay with reference to Case No.4/2008 is found to be mentioned. Accordingly, whether the petitioner herein was an appellant before the Arbitrator is required to be verified. Such verification is found to be necessary because the learned standing counsel for NHAI has submitted that if the petitioner did not file any appeal against the compensation awarded to him, the petitioner would not be entitled to enhanced award as was granted by order passed in Misc.(J) Case No.116/2009.

Accordingly, having seen that the records of Case No.4/2008 was returned back by the learned District Judge, Nagaon to the Office of the Commissioner, North Assam Division,

Tezpur cum Arbitrator for NH-4-Lane of Nagaon and Morigaon District, the Court is inclined to call for the records of the said case No.4/2008, which was disposed of by the Commissioner, North Assam Division, Tezpur by order dated 25.09.2008.

The learned counsel for the petitioner submits that there is some urgency in the matter because on 24.09.2020, 12 (twelve) years from the date of judgment would expire and the execution petition would be barred by limitation.

Under such circumstances, pending further adjudication in the matter, the Court is inclined to grant liberty to the petitioner to file execution petition as he may be so advised. It is also provided that if any execution petition is filed, it would be subject to further orders that may be passed by this Court and therefore, the execution petition, if so filed, shall not be executed till further orders of this Court.

Let a copy of this order be provided to the learned Additional Senior Govt. Advocate to enable him to instruct the Office of the Commissioner, North Assam Division, Tezpur to send the records of Case No.04/2008.

List on 11.11.2020, awaiting receipt of records.

JUDGE

Comparing Assistant