

GAHC010028852025



2026:GAU-AS:3036

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

Case No. : WP(C)/792/2025

NUMALIGARH REFINERY LIMITED
A COMPANY INCORPORATED IN INDIA AND HAVING ITS REGISTERED
OFFICE AT 122A, G.S. ROAD, CHRISTIAN BASTI, GUWAHATI- 781005,
ASSAM AND IS REPRESENTED BY SRI KAJAL SAIKIA, SON OF LATE
MADHU SAIKIA, RESIDENT OF QUARTER NO. D-22, NUMALIGARH
REFINERY TOWNSHIP, P.O. KANAIGHAT, DISTRICT- GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE JOINT SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE AND D.M.(LR) DEPARTMENT, ASSAM, SECRETARIAT
(CIVIL), DISPUR, GUWAHATI- 781006, ASSAM.

2:THE COLLECTOR CUM DEPUTY COMMISSIONER
GOLAGHAT
P.O. AND P.S. GOLAGHAT
DISTRICT- GOLAGHAT
ASSAM.

3:MOUCHAK AGRO LLP
A LIMITED LIABILITY PARTNERSHIP
HAVING ITS REGISTERED OFFICE AT MANIDUIP BUILDING
JPR ROAD
P.O. AND P.S. JORHAT
DISTRICT JORHAT
ASSAM
AND IS REPRESENTED BY SRI SANJAY KUMAR BHOOPAL
S/O SRI SANT KUMAR BHOOPAL
RESIDENT OF MANIDUIP BUILDING
JPR ROAD
P.O. AND P.S. JORHAT
DISTRICT JORHAT
ASSAM

ERSTWHILE
MOUCHAK AGRO PRIVATE LIMITED
WHICH WAS A REGISTERED COMPANY UNDER THE COMPANIES ACT

Advocate for the Petitioner : Mr. K. N. CHOUDHURY; MR. A K SAHEWALLA, MR P
GOGOI,MR D GOSWAMI

Advocate for the Respondent : GA, ASSAM, MS. S YASMIN(R-3),MR H K SARMA,SC,
REVENUE,FOR CAVEATOR,MR H K SARMA (R-3),MR D SENAPATI

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : 29.01.2026

Date of pronouncement of judgment : 27.02.2026

**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. K. N. Choudhury, learned Senior Counsel assisted by Mr. A. K. Sahewalla, learned counsel for the petitioner. Also heard Mr. J. Handique, learned Standing Counsel, Revenue Department, for the respondent No. 1; Mr. N. Goswami, learned State Counsel for the respondent No. 2 and Mr. D. Senapati, learned counsel for the respondent No. 3.

2. The challenge made in this writ petition is to the order dated 16.09.2022

passed in LA Misc. Case No. 01/2022 by the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, Jorhat, whereby the Collector-cum-Deputy Commissioner, Golaghat was directed to make a reference on the basis of the application dated 18.04.2022 filed by respondent No. 3. The petitioner has also assailed the order dated 18.11.2024 passed in Misc. Case No. 06/2024 in LA Reference Case No. 02 of 2023 by the learned District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, Jorhat, whereby Misc. Case No. 06/2024, filed by the petitioner objecting to the reference was rejected and the entire proceedings of LA Reference Case No. 02/2023 pending before the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, Jorhat.

3. The petitioner, *M/s Numaligarh Refinery Limited* (hereinafter referred to as the petitioner company in short), is a Government-owned company having its registered office at 122A, G.S. Road, Christian Basti, Guwahati, Assam. The petitioner company had published an offer for Expression of Interest dated 20.11.2020 inviting sealed offers from interested parties holding possession of such land for short listing prospective owners of land for lease rental or outright purchase, which would be suitable for the petitioner company's various pre-project activities related to expansion and other enabling activities of the project.

4. Pursuant thereto, *M/s Mouchak Agro Private Limited*, the respondent No. 3 herein, expressed its interest vide letter dated 30.11.2020 for outright sale of land measuring approximately 600 Bighas, covered by Dag Nos. 93 and 94 under Patta No. (PP/AP)-02, situated at village Ouguri, Morangi Circle. Upon detailed scrutiny of the documents and price submitted by the intending

participants in response to the Expression of Interest, the land (tea garden) owned by respondent No. 3 was found to be most suitable and accordingly, respondent No. 3 agreed to offer the said land for acquisition.

5. The revenue authorities initiated proceedings for land acquisition under *the Assam Land (Requisition and Acquisition) Act, 1964* (in short, the Act of 1964), by publication of the requisite notification(s). Following due process, a Gazette notification dated 25.06.2021 was issued in respect of LA Case No. 01/2021–2022, which was also published in a local Newspaper. On 16.07.2021, the Joint Secretary to the Government of Assam, Revenue and Disaster Management Department, forwarded approval to the Deputy Commissioner, Golaghat, for the estimated amount in connection with the acquisition of said 600 Bighas of land for construction of the Numaligarh Refinery Expansion Project (NREP), amounting to Rs.79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only). The respondent No. 3 participated in the proceedings by furnishing details of the tea garden land and assets.

6. The Deputy Commissioner, Golaghat, vide letter dated 19.07.2021, forwarded the estimated amount to the petitioner company for acquisition of the said land for an amount of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only) towards disbursement of land value, *zirat*, etc., which was prepared after field verification by the revenue authorities in association with the tea garden management of respondent No. 3 and officials of the petitioner company and after holding several rounds of meetings to finalize the modalities for proceeding with the land acquisition. The petitioner company, on 22.07.2021, submitted a

bank draft bearing No. 488671 to the Deputy Commissioner, Golaghat, for the aforesaid amount and requested handing over of advance possession of the land, which was also duly communicated to respondent No. 3 regarding the deposit of the acquisition cost for the said 600 Bighas of land along with *zirat*.

7. The Deputy Commissioner thereafter requested respondent No. 3 to submit all relevant documents for payment of compensation towards acquisition of the said land and *zirat*, etc. In response, respondent No. 3, vide letter dated 24.08.2021, stated that it was ready to hand over advance possession of the land upon execution of all documents/operations/transactions in the name and bank account of Mouchak Agro LLP, as the constitution of the company had been converted from a company to a Limited Liability Partnership (LLP). Accordingly, a fresh proposal in the name of Mouchak Agro LLP, i.e. respondent No. 3, was forwarded to the State Government in view of the change in nomenclature.

8. Pursuant thereto, the Deputy Commissioner submitted a letter dated 17.11.2021 in Form X to the Joint Secretary, Revenue & DM (LR) Department, in connection with the land acquisition award for the said 600 Bighas of land along with an award list for a total value of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only). The award was determined under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, the LARR Act, 2013), taking the value of land at Rs. 2,40,000/- (Rupees Two Lakh Forty Thousand) per Bigha, Tea Bush at Rs. 50/- (Rupees Fifty) per bush and Sirish tree at Rs. 4,000/- (Rupees Four Thousand) per tree. It is contended that the respondent No. 3 was aware of the award and did not

raise any objection.

9. The Additional Deputy Commissioner, Land Acquisition Branch, Golaghat, vide letter dated 10.05.2021, had requested M/s Mouchak Agro Pvt. Ltd. to file objections by 25.05.2021. In response, vide letter dated 15.05.2021, M/s Mouchak Agro Pvt. Ltd. informed that they were agreeable to the proposal and did not raise any objections. It is contended that at no stage prior to receipt of the payment did the respondent No. 3 indicate any grievance regarding the quantum of compensation. Subsequently, M/s Mouchak Agro LLP, sent a letter on 16.03.2022, backdate dated 14.03.2022, indicating receipt of the amount under protest.

10. Vide letter dated 18.09.2021, the Deputy Commissioner, Golaghat, informed the respondent No. 3 that the petitioner company had deposited Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only) in the savings account of the Deputy Commissioner against LA Case No. 1/2021-22 and requested formal handover of possession of the said 600 Bighas of land to the petitioner company in consultation with the Circle Officer, Morangi Revenue Circle. On the same date, vide letter dated 18.09.2021, the respondent No. 3 was requested to submit documents to facilitate release of the deposited amount. In compliance, the respondent No. 3 submitted a copy of the indemnity bond, cancelled cheque and affidavit. At that time and on 22.11.2021, the respondent No. 3 did not indicate any grievance regarding the sufficiency of the amount.

11. A meeting was held on 05.02.2022, chaired by the Hon'ble Chief Minister of Assam, which was attended by the designated partner and General Manager of respondent No. 3, Mouchak Agro LLP. In the meeting, it was decided that the

compensation amount as fixed earlier could be released to respondent No. 3 after deducting the amount payable to eligible workers. Pursuant to this decision, respondent No. 3 submitted a petition for release of the compensation amount after deducting the amount payable to the eligible workers. It is contended that Respondent No. 3, as the erstwhile company managing the tea garden, was fully aware of the land acquisition process, the publication of public notices, joint meetings and surveys, and actively participated in all such proceedings. Immediately prior to submitting the documents to receive the compensation, respondent No. 3 changed its status from a private limited company to a Limited Liability Partnership, thereby facilitating only the partners of the LLP to benefit from the award. Respondent No. 3 also executed affidavits and indemnity bonds for receiving the awarded amount in the name of the LLP. This strategic move demonstrates that respondent No. 3 was fully aware of the progress of the land acquisition and the compensation award, yet raised no objection to the compensation amount at any stage.

12. It is the contention of the petitioner company that without going into the controversy regarding the date of the letter raising objection to the compensation amount, 16.03.2022 or backdated 14.03.2022, it is an admitted fact that the letter was sent after the amount had been credited to the bank account of respondent No. 3. There is no requirement under banking regulations or rules pertaining to payment of land acquisition compensation for giving a written acknowledgment once the amount is credited. The letter by respondent No. 3 thus appears to be a mere afterthought. At the time of submitting documents for payment, respondent No. 3 had changed its status from a private limited company to an LLP and had also executed an affidavit acknowledging the compensation amount, coupled with a letter dated 19.02.2022, without

raising any objection.

13. Thereafter, the respondent No. 3 on 18.04.2022 sought for reference under section 64 of LARR Act, 2013 before the Deputy Commissioner-cum-Collector but was not referred against which an application being LA Misc. Case No. 01/2022 was filed before the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, Jorhat. Vide the impugned order dated 16.09.2022 the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, allowed the application and the Collector-cum-Deputy Commissioner, was directed to make a reference on the basis of the application filed by respondent No. 3. The petitioner company filed Misc. Case No. 06/2024 in LA Reference Case No. 02 of 2023 by the learned District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, objecting to the reference which was rejected vide order dated 18.11.2024 by the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority. Hence this writ petition.

14. Mr. K. N. Choudhury, learned Senior Counsel for the petitioner, contends that Section 77 of the LARR Act, 2013 and specifically sub-section (2), applies once the amount is credited, and in such an event, the interested person cannot make a reference under Section 64 unless sub-section (2) and its provisos are invoked and complied with. In the present case this did not occur and the award was never protested even after it came to the knowledge of respondent No. 3. Accordingly, the amount was disbursed into the bank account provided by respondent No. 3, who could not have invoked the provisions of Section 64(1) of the LARR Act, 2013. The orders passed in the reference case is therefore bad in law, particularly as the Court below treated the letter stating receipt under

protest as a valid protest under Section 77 of the LARR Act, 2013. In view of this, the reference case cannot be decided on its merits and has gravely prejudiced the petitioner.

15. Mr. K. N. Choudhury, learned Senior Counsel submits that respondent No. 3 complied with all necessary requirements and submitted the requisite documents on 22.11.2021 without raising any objections regarding the quantum of compensation or the manner of disbursement. Furthermore, respondent No. 3 participated in a high-level meeting on 05.02.2022, which was held at the Conference Hall of the Deputy Commissioner, Golaghat, chaired by the Hon'ble Chief Minister of Assam. Respondent No. 3 attended the meeting without any objection or protest and participated in the discussions regarding the release of compensation.

16. Mr. Choudhury, learned Senior Counsel submits that pursuant to the meeting, respondent No. 3, through a letter dated 19.02.2022, addressed to the Deputy Commissioner, Golaghat, stated that the compensation amount may be released, subject only to the deduction of amounts payable to eligible workers. This letter reaffirmed the acceptance of the compensation amount by the respondent No. 3. Respondent No. 3 further confirmed its agreement by submitting a sworn affidavit dated 10.03.2022, wherein the designated partner-cum-authorized signatory categorically stated that the Deputy Commissioner could release the compensation amount in respect of LA Case No. 1/2021-22, after deducting the workers' dues, as per the Minutes of Meeting. At no point in time was there any reservation or protest regarding the compensation amount.

17. Mr. Choudhury, learned Senior Counsel submits that in view of the consistent and unequivocal conduct of respondent No. 3, the compensation amount was released on 14.03.2022 and duly credited to the bank account of respondent No. 3.

However, only after the compensation was received and encashed, did respondent No. 3, for the first time, on 16.03.2022, claim that the amount had been received "under protest." He submits that such a belated assertion of protest is wholly impermissible in law, as it goes against the very root of Section 64(1) of the LARR Act, 2013, which clearly mandates that a reference can only be made where compensation is not accepted or is accepted under protest at the time of receipt.

18. Mr. Choudhury, learned Senior Counsel further submits that the statutory framework does not recognize a protest raised after the acceptance of compensation. The record clearly demonstrates repeated written consent, sworn affidavits and active facilitation of disbursement by respondent No. 3. By accepting the compensation without protest, facilitating its release and enjoying its benefits, the conduct of the respondent No. 3, amounts to waiver and acquiescence, thereby barring any subsequent reference. The documentary trail from 10.05.2021 to 16.03.2022 makes it evident that respondent No. 3 never raised any objection to the compensation amount before its receipt. Therefore, the protest raised on 16.03.2022 is a mere afterthought and is legally inconsequential, aimed solely at reopening a settled transaction.

19. Mr. Choudhury, learned Senior Counsel, submits that once the compensation has been accepted unconditionally, Section 64 of the LARR Act, 2013 becomes extinguished. The statute does not permit the revival of a reference based on a post-receipt protest. The conduct of respondent No. 3 reflects clear approbation and reprobation and having unconditionally accepted the compensation, facilitated its release and benefited from it, respondent No. 3 cannot now challenge the quantum of compensation under Section 64.

20. In support of his submissions, Mr. Choudhury, learned Senior Counsel, has relied on the following judgments:

(i). **Ashwani Kumar Dhingra vs. State of Punjab**, reported in **(1992) 2 SCC 592**.

(ii). **Wardington Lyngdoh and Ors. vs. Collector, Mawkyrwat**, reported in **(1995) 4 SCC 428**.

(iii). **Land Acquisition officer vs. Shivavai and Ors.** reported in **(1997) 9 SCC 710**.

(iv). **Indore Development Authority vs. Shailendra (dead) through Legal representatives and Ors.** reported in **(2013) 3 SCC 412**.

21. On the other hand, Mr. D. Senapati, learned counsel for the respondent No. 3, submits that at the time of issuance of the letter dated 10.05.2021 by the Additional Deputy Commissioner to the respondent No. 3, as regards the acquisition of the land and sought for any objection from the respondent No. 3, neither the cost towards land acquisition estimate was approved nor the award was passed. Therefore, question of raising any objection by the respondent No. 3 as regards the quantification of compensation does not arise. The respondent No. 3 has agreed only regards acquiring of the land. It is only on 16.07.2021, the Joint Secretary has approved the land acquisition estimate of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only), which was forwarded to the Deputy Commissioner. Thereafter, the Additional Deputy Commissioner asked the petitioner company to arrange fund in terms of the approved land acquisition estimate of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only) and deposit the amount in the account of Deputy Commissioner, Golaghat.

22. The respondent No. 3 vide letter dated 24.08.2021 had intimated that the respondent No. 3 is ready to handover advance possession to petitioner company and also as regards the conversion of respondent No. 3 from limited company to LLP. He submits that the Deputy Commissioner prepared the award as per Form X and forwarded for approval to the State Government in terms of Rule 36(6) of the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015, on 17.11.2021, although no copy thereof was marked/furnished to the respondent No. 3.

23. He submits that the Minutes of the Meeting dated 05.02.2022 under the Chairmanship of the Chief Minister, Assam, only reflects that the respondent No. 3 has agreed to pay compensation amount to the workers. The respondent No. 3 had intimated on 19.02.2022 to the Deputy Commissioner that compensation amount can be released after deducting the amount payable to workers, however nowhere it reflects the quantum of compensation amount. It is only on 02.03.2022, the award was approved by the State Government, although no copy was marked or furnished to the respondent No. 3. The affidavit dated 10.03.2022 filed by the respondent No. 3 only states that compensation amount payable may be released after deducting the compensation to be paid to the workers. It no where reflects the quantum of compensation amount and as such, the question of acceptance as to the compensation amount does not arise.

24. He submits that the respondent No. 3 acknowledged the receipt of Rs. 64,39,04,000/- (Rupees Sixty-Four Crores Thirty-Nine Lakh Four Thousand only) under protest on 14.03.2022 and protested against the sufficiency of the amount. Thereafter, on 17.03.2022, the possession of the land in question was

handed over to the petitioner company. Accordingly, on 18.04.2022, the respondent No. 3 sought for reference before the Deputy Commissioner against sufficiency of the compensation amount under Section 64 of the LARR Act, 2013.

25. Mr. Senapati, learned counsel, submits that the award in the instant case became effective only upon approval by the State/Competent Authority on 02.03.2022, as mandated under Rule 36(6) of the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015, which provides that where the total compensation exceeds Rs. 5.00 Crore, prior approval of the State Government is mandatory before declaration of the award. It is submitted that the approved copy of the award was forwarded by the Joint Secretary to the Government of Assam, Revenue & D.M. (LR) Department, to the Deputy Commissioner, Golaghat only on 02.03.2022, and therefore, for all intents and purposes, the award became operative only on that date and not prior thereto.

26. Mr. Senapati, learned counsel, submits that prior to 02.03.2022, the award had no legal finality and, as such, any act or communication prior thereto cannot be construed as acceptance of the award, more particularly when there is no receipt of the amount on 14.03.2022 on being directly credited to the bank account of the respondent No. 3. It is contended that unless an award has come into effect in the eye of law, the question of either acceptance of the award or lodging protest against it does not arise. He submits that the petitioner's reliance on the respondent No. 3's letter dated 19.02.2022, requesting release of compensation after deduction of dues payable to workers, is wholly misconceived. The said communication was made prior to approval of the award

on 02.03.2022, and therefore cannot, be treated as acceptance of an award which had not yet attained legal finality.

27. Mr. Senapati, learned counsel, further submits that the LARR Act, 2013 does not lay down, in clear or explicit terms, the time, method or manner of lodging protest against the compensation awarded. A conjoint reading of Section 64 and the second proviso to Section 77(2) of the Act of 2013 only indicates that a person who has received compensation otherwise than under protest is disabled from seeking reference, but the statute is conspicuously silent as to how, when or in what form such protest is to be made. It is submitted that neither Section 64 nor Section 77 nor any other provision of the LARR Act, 2013, prescribes that protest must be simultaneous with receipt of compensation, or that it must precede such receipt, or that it must necessarily be in writing. In the absence of such statutory requirement, the validity of the protest cannot be questioned.

28. Mr. Senapati, learned counsel, submits that in the present case, the compensation amount was directly credited to the bank account of respondent No. 3 on 14.03.2022, and on the very same date, respondent No. 3, vide its letter dated 14.03.2022, clearly conveyed that the amount had been received under protest as to the sufficiency of the amount and without prejudice to its rights. The factum of protest is thus contemporaneous with receipt of compensation and stands admitted.

29. Mr. Senapati, learned counsel, submits that acceptance or protest presupposes the existence of a valid and operative award. Since the award became effective only on 02.03.2022, any correspondence prior thereto is legally irrelevant for determining acceptance or protest. He submits that even

assuming, without admitting, that there was no express protest at the time of receipt of compensation, the settled position of law is that filing of an application under Section 64 of the LARR Act, 2013, itself constitutes an implied protest, as it manifests dissatisfaction with the quantum of compensation awarded. The respondent No. 3 filed its application seeking reference under Section 64 on 18.04.2022, well within the prescribed period of limitation. Such filing, in itself, clearly establishes that the respondent No. 3 had not accepted the award and was dissatisfied with the compensation.

30. Mr. Senapati, learned counsel, submits that the issue of whether the compensation offered was accepted without protest is essentially a question of fact. As such, it should be determined based on the evidence to be adduced before the Reference Court. Therefore, he submits that this Court may not interfere at this stage as the matter is still pending adjudication before the Reference Court and as such the reference pending before the learned District and Sessions Judge-cum-Land Acquisition, Rehabilitation and Resettlement Authority does not suffer from any infirmity and no interference is warranted by this Court.

31. In support of his submissions, Mr. Senapati, learned counsel has placed reliance on the following judgments:

(i). **Ajit Singh vs. State of Punjab and ors**, reported in **(1994) 4 SCC 67**,

(ii). **M/s Steel Authority of India Lt. vs. S.U.T.N.I. Sangam & ors**, reported in **(2009) 16 SCC 1**.

(iii). **Chandra Bhan (D) vs. Ghaziabad Dev. Authority**, reported

in **(2015) 15 SCC 343.**

(iv). **S.K. Containers Private Ltd. vs. Sushmita Bhattacharya,**
reported in **(2017) 14 SCC 326.**

32. I have considered the submissions advanced by the learned counsels for the parties and also perused the materials available on record.

33. Pursuant to the offer for Expression of Interest dated 20.11.2020, land of the respondent No. 3 measuring approximately 600 Bighas, situated at village Ouguri, Morangi Circle, was acquired. The proceedings for land acquisition were initiated under the Act of 1964, by publication of the requisite notifications, including a Gazette notification dated 25.06.2021. Vide letter dated 16.07.2021, the Joint Secretary to the Government of Assam, Revenue and Disaster Management Department, forwarded approval to the Deputy Commissioner, Golaghat, for the estimated amount of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only). In turn, the Deputy Commissioner, Golaghat, vide letter dated 19.07.2021, forwarded the estimated amount to the petitioner company for acquisition of the said land for Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only) towards disbursement of land value, zirat, etc., which was prepared after field verification by the revenue authorities, representatives of respondent No. 3, and the petitioner company. The Additional Deputy Commissioner, Golaghat, vide letter dated 10.05.2021, had requested M/s Mouchak Agro Pvt. Ltd. to file objections by 25.05.2021. In response, vide letter dated 15.05.2021, M/s Mouchak Agro Pvt. Ltd. informed that they were agreeable to the proposal.

34. The petitioner company, on 22.07.2021, submitted a bank draft to the Deputy Commissioner, Golaghat, for the aforesaid amount and requested handing over of advance possession of the land, which was also duly communicated to respondent No. 3 regarding the deposit of the acquisition cost for the said 600 Bighas of land. The Deputy Commissioner thereafter requested respondent No. 3 to submit all relevant documents for payment of compensation towards acquisition of the said land. In response, respondent No. 3, vide letter dated 24.08.2021, stated that they were ready to hand over advance possession of the land upon execution of all documents/operations/transactions in the name and bank account of Mouchak Agro LLP, as the constitution of the company had been converted from a company to a Limited Liability Partnership (LLP). Accordingly, a fresh proposal in the name of Mouchak Agro LLP, i.e., respondent No. 3, was forwarded to the State Government.

35. Vide letter dated 18.09.2021, the Deputy Commissioner, Golaghat, informed respondent No. 3 that the petitioner company had deposited Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only) in the savings account of the Deputy Commissioner and requested formal handover of possession of the said 600 Bighas of land to the petitioner company. Vide letter dated 18.09.2021, respondent No. 3 was requested to submit documents to facilitate the release of the deposited amount. The respondent No. 3 submitted a copy of the indemnity bond, cancelled cheque and executed affidavits for receiving the awarded amount in the name of the LLP.

36. The Deputy Commissioner prepared the award as per Form X and

forwarded it for approval to the State Government in terms of Rule 36(6) of the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015, on 17.11.2021 for the said 600 Bighas of land for a total value of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only). Several joint meetings were held to finalize the modalities of acquisition. It is true that respondent No. 3 did not indicate any grievance regarding the sufficiency of the amount during this period.

37. It is seen that initially, on 16.07.2021, the Joint Secretary approved the land acquisition estimate of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only), which was forwarded to the Deputy Commissioner. The petitioner company was asked to arrange funds in terms of the approved land acquisition estimate of Rs. 79,58,84,740/- (Rupees Seventy-Nine Crore Fifty-Eight Lakh Eighty-Four Thousand Seven Hundred Forty only) and deposit the amount in the account of the Deputy Commissioner, Golaghat. The respondent No. 3, vide letter dated 24.08.2021, had intimated that they were ready to hand over advance possession to the petitioner company. However, it was only on 02.03.2022 that the award was approved by the State Government.

38. The affidavit dated 10.03.2022, submitted by respondent No. 3, states that the compensation amount payable may be released after deducting the compensation to be paid to the workers. The respondent No. 3 acknowledged the receipt of Rs. 64,39,04,000/- (Rupees Sixty-Four Crore Thirty-Nine Lakh Four Thousand only) under protest, vide letter dated 14.03.2022, as to the sufficiency of the amount. Thereafter, on 17.03.2022, the possession of the land

in question was handed over to the petitioner company. On 18.04.2022, the respondent No. 3 sought a reference before the Deputy Commissioner against the sufficiency of the compensation amount under Section 64 of the LARR Act, 2013.

39. In view of the above, the award became effective from the date of approval by the State Government on 02.03.2022, as under Rule 36(6) of the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015, it provides that where the total compensation exceeds Rs. 5.00 Crore, prior approval of the State Government is required before the declaration of the award. In any case, respondent No. 3 was well aware of the acquisition proceedings and participated in the entire proceedings without any objection, which clearly indicates that respondent No. 3 had accepted the acquisition of the land and the compensation. However, the issue is at what stage the compensation is said to have been received under protest.

40. To appreciate, it would be apposite to consider the provisions of the LARR Act, 2013. The relevant provisions of Sections 64 and 77 are reproduced herein under:

“64. Reference to Authority-

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collectors award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collectors award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

77. Payment of compensation or deposit of the same in Authority-

(1) On making an award under section 30, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them by depositing the amount in their bank accounts unless prevented by someone or more of the contingencies mentioned in sub-section (2).

(2) If the person entitled to compensation shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Authority to which a reference under section 64 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under sub-section (1) of section 64:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation

awarded under this Act, to pay the same to the person lawfully entitled thereto."

41. A bare reading of the above provisions would show that a reference can be sought by any person interested who has not accepted the award, by a written application made to the Collector, for determination as regards objection to the measurement of the land, the amount of compensation, the person to whom it is payable and also the apportionment of compensation among persons interested. Sub-section (2) of Section 64 further requires that the applicant must state the grounds on which the objection to the award is taken. The application has to be made within a period of six weeks from the date of the award, if the person making the application was present or represented before the Collector at the time of making the award. In other cases, it has to be made within six weeks of the receipt of the notice from the Collector under Section 21, or within six months from the date of the Collector's award, whichever period shall first expire. There is an embargo contained in the second proviso to sub-section (2) of Section 77 of the Act, which says that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 64.

42. A conjoint reading of the second proviso to sub-section (2) of Section 77 and Section 64 of the LARR Act, 2013 shows that an application seeking reference under Section 64 for determination of the amount of compensation can be made by any person interested who has not accepted the award and who has not received the amount otherwise than under protest. The second proviso to sub-section (2) of Section 77 is couched in negative form and disables a person from seeking reference under Section 64 in case the amount of compensation is received by him otherwise than under protest. However, the

Act nowhere lays down the method, manner, or form in which a protest has to be lodged by a person receiving the amount of compensation. On one hand, the right is conferred by Section 64 on any person interested who has not accepted the award to seek reference to the Court for determination of the amount of compensation, provided the application is filed by him within the prescribed period. On the other hand, there is an embargo placed not by the same provision but by the second proviso to sub-section (2) of Section 77 on such a person who has received the amount of compensation otherwise than under protest, from making such an application for reference under Section 64. Thus, a person interested must not accept the award to seek reference under Section 64. However, the provision is silent as to how, when, or in what form a protest is to be made. But a conjoint reading of Section 64 and Section 77 shows that receipt of compensation under protest must be, if not preceding, at least contemporaneous with the receipt of compensation.

43. In the case in hand, admittedly, the compensation amount was credited to the bank account of respondent No. 3 on 14.03.2022, and on the same day, respondent No. 3, vide its letter dated 14.03.2022, conveyed that the amount had been received under protest as to the sufficiency of the amount and without prejudice to its rights, which was received on 16.03.2022. Therefore, it appears that, though no objection was raised to the award by respondent No. 3, the amount of compensation was seen to have been received under protest. The acceptance or protest presupposes the existence of a valid and operative award. Since the award became effective only on 02.03.2022, any correspondences prior thereto would be inconsequential for determining acceptance or protest. Thus, in my view, the protest should be contemporaneous with the receipt of compensation and respondent No. 3 having received the compensation under

protest on 14.03.2022 contemporaneously, the reference would lie.

44. Coming to the case laws relied on by the learned counsel for the parties, perusal shows that the decisions pertain to Sections 18 and 31 of the Land Acquisition Act, 1894, which are *pari materia* with Sections 64 and 77 of the LARR Act, 2013. The provisions of Section 18 of the Land Acquisition Act state that the person interested, in order to enable him to seek the remedy of reference, can do so only if he does not accept the award. In order to show that the person concerned had not accepted the award, the claimants accept the compensation only under protest, because once the compensation awarded in pursuance of the award is accepted without protest, the person concerned may lose his right to a reference. The case laws are reproduced herein under:

45. In the case of **Ashwani Kumar Dhingra (supra)**, the Hon'ble Supreme Court has held as under:

“ 10. The acceptance of compensation under protest was not done by the appellant with a view to safeguard his right to challenge the acquisition itself but to safeguard his right to require the matter being referred by the Collector for determination of the Court in relation to the matters mentioned in S. 18 of the Land Acquisition Act. It is clear from the provisions of S. 18 of the Land Acquisition Act that the person interested, in order to enable him to seek the remedy of reference can do so only if he does not accept the award. In order to show that the person concerned had not accepted the award the claimants accept the compensation only under protest because once the compensation awarded in pursuance of the award is accepted without protest the person concerned may lose his right to a reference for various matters mentioned in S. 18 of the Land Acquisition Act.”

46. In the case of **Wardington Lyngdoh (supra)**, the Hon'ble Supreme Court has held as under:

“ 5. It will thus be clear that the persons interested in the land are entitled to receive compensation awarded by the Collector under S. 11 under protest and entitled to object to the compensation determined by the Collector. No person

who had received the amount otherwise than under protest should be entitled to make the application under S. 18. In other words, the receipt of the amount under protest is a condition precedent to make an application under S. 18 within the limitation prescribed under the proviso to sub-s. (2) of S. 18 together with the grounds on which the objections have been taken. Thereon the Collector is enjoined to make a reference to the Civil Court with the statement in the manner stated in S. 19".

47. In the case of **Indore Development Authority (supra)**, the Hon'ble Supreme Court has held as under:

"10. Sub-section (1) of section 31 deals with "payment", whereas, sub-section (2) of section 31 deals with "deposit" of the amount of compensation in court in certain contingencies. "Payment" of compensation is differently dealt with in section 31(1), and "deposit" is separately dealt with in section 31(2) of the Act of 1894. Section 31(1) provides tender of the amount to be the mode to pay. The provisions of sub-section (1) deal with payment, and sub-section (2) of section 31 deals with deposit in the Court "where reference would be submitted", only in the contingencies mentioned, i.e. (1) if the person interested shall not consent to receive it, and has sought reference to Court or (2) if there be no person competent to alienate the land, or (3) if there be any dispute as to the entitlement to receive the compensation, or (4) if there be any dispute as to the apportionment of compensation between the interested persons. The Collector is required to deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted. It is also provided in section 31(2) that no person who has received the amount otherwise than under protest shall be entitled to make an application for seeking reference under section 18. It is open to a person, under the first proviso to section 31(2), to receive payment of compensation under protest as to the sufficiency of the amount, and such person is also entitled to maintain a reference. The third proviso to section 31(2) makes it clear that any person who has received the whole or any part of compensation awarded under the Act, shall still be liable to pay the same to a person who is lawfully entitled thereto. It is with the purpose as provided in section 31 when the amount is tendered it can be accepted under protest and still a reference can be maintained. In case awarded amount has been accepted without protest, reference cannot be maintained under section 18. "

48. In the case of **Shivavai (supra)**, the Hon'ble Supreme Court has held as under:

"8. Shri C. Sitaramiah, learned senior counsel appearing for the respondents,

contends that on the Division Bench s directing to make an enquiry into the matter, the Land Acquisition Officer himself has referred the matter. Unless there is a proof of service of the notice of the award under sub-section (2) of Section 12, the limitation does not start. We are unable to agree with the learned counsel. It is now settled law that it is not necessary that the award or its copy should be served on the claimant along with notice under Section 12(2) of the Act. If the parties are not present on the date the award came to be passed, then Collector/Land Acquisition Officer shall give immediate notice of his award. The limitation begins to run from the date of the notice as per proviso to Section 18(2). The date of the award and the date of the receipt of the compensation was incidentally the same date. Under these circumstances, it must be presumed that they were present on the date when the award was made and the compensation was received without any protest. Under these circumstances, they are not entitled to seek any reference.

9. No doubt they had filed the writ petition in the High Court for seeking reference. But the High Court s order was only for making reference on verification and to find out correct factual position. The officer himself was in collusion with the claimants and without making any enquiry he made the reference. Subsequently, some persons were impleaded to the reference. That itself indicates that all was not going well. It is now settled position in law that the claimants who recive the compensation under protest and who make application under Section 18(1), alone are entitled to seek a reference; third parties, who have been impleaded, have no right to claim higher compensation by circumventing the process of reference under Section 18. Under these circumstances, the reference itself is without any jurisdiction and barred by limitation. Thereby, the award of the reference court is clearly illegal. On appeal, the High Court has not considered all these perspectives and found it convenient to rely on another judgment to upheld the award of the Civil Court."

49. The case of **The State of Assam and Ors. -vs- On the death of Deben Chandra Nath (W.A. No. 185/2017 on 24.03.2025)** is referred to project that the Division Bench of this Court, while determining the question as to when an award becomes effective, has held that when the award signed by the District Collector was approved by the State/Competent authority, then the same became an award only from that day.

50. In the case of **Ajit Singh** (Supra), by notification issued under Section 4 of the Act on October 4, 1978, land was acquired for public purpose. The Land

Acquisition Collector awarded compensation. Not being satisfied with the same, applications for reference under Section 18 were filed. Reference was made to the Civil Court, which enhanced the compensation only in favour of those who had received the amount of compensation as per the award of the Collector with protest. To those who had received the amount of compensation without any protest, enhancement was denied. One of the questions before the Hon'ble Supreme Court was about the maintainability of applications under Section 18 of the Act by those interested persons who had received the compensation otherwise than under protest. The Supreme Court held as under:

“...Inasmuch as the appellants have filed an application for reference under Section 18 of the Act that will manifest their intention. Therefore, the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. The District Judge and the High Court, therefore, fell into patent error in denying the enhanced compensation to the appellants.

21. In Wardington's case, the Collector had made his award on 17.05.1989. On 5.7.1989 the persons interested received the amount of compensation under an agreement signed by them and the Collector. On 8.8.1989 the persons interested objected to the amount of compensation and claimed appeared on 29.8.1989 and reiterated their request for reference. At that stage, objection was raised that they had received the compensation without protest. This is how the matter came up before the Supreme Court. The question before the Supreme Court was that since persons interested had objected to the award though after receiving the compensation, the reference was valid. Needless to add that the application seeking for reference was not filed within the period of limitation. The Supreme Court held that the receipt of the amount under protest is a condition precedent to make an application under Section 18 of the Act and that also within the limitation prescribed under the proviso to Sub-section (2) of Section 18 of the Act. Whatever has been held in this decision does not go counter to what the Supreme Court in Ajit Singh's case supra held as regards the form, mode and manner of protest.

23. We have already observed earlier that neither Section 18 of the Act nor Section 31 of the Act or any other provision in the Act provide for the method, form and manner of lodging protest when the claimant is not satisfied with the compensation awarded. Even the second proviso to Sub-section (2) of Section 31 does not prescribe the time of lodging protest, that whether the protest as

to the receipt of the amount of compensation has to be made simultaneously while receiving the amount or prior to or subsequent thereto. It also nowhere postulates that the protest must be in writing. We must bear in mind the purport and purpose of reference to the Civil Court. An award of the Collector made under Section 11 of the Act is nothing but an offer on behalf of the Government of the amount of compensation payable to a person, who is deprived of his property. In a Welfare State, under the State's right of eminent domain a person so deprived of his property is entitled to have fair and reasonable amount of compensation with reference to the true market value of the land as on the date of issuance of Section 4(1) notification and the same should not be denied on mere technical pleas.

25. Law gives a right, to such deprived citizen, in case such a person is not satisfied with the amount of compensation so offered, to seek reference for determination of the amount of compensation by a Civil Court, for which limitation is provided under Section 18 of the Act. In a situation where an interested person within the period of limitation seeks reference for determination of compensation and the law nowhere lays down in clear and explicit terms the time, the method and manner of lodging protest, there is no reason that why to such a case the ratio laid down in Ajit Singh's case will not be applicable. The Supreme Court held that the very fact of seeking reference by the person interested within the limitation would imply lodging of protest and an inference that the amount offered by the Collector on behalf of the State has been received subject to his right to have the correct amount of compensation determined by a Civil Court, in accordance with law. After all what the Civil Court will do, when a reference is made? It will have to determine the amount which is payable under the provisions of the Act with reference to the provisions of Section 23 of the Act, namely, the true market value of the land as on the date of issuance of the notification under Section 4(1) of the Act.

28. In the view we have taken, we answer the reference holding that in the absence of any manner of protest having been specified in the Act and the time when protest is to be lodged, act of filing of an application seeking reference to Civil Court within the period of limitation prescribed under Section 18 of the Act will impliedly infer that the claimant/person interested had accepted the amount with protest. Not expressly lodging protest at the time of receiving amount in such circumstance would not amount to waiver of the right to seek reference under Section 18 of the Act. (emphasis added)."

51. In M/S. Steel Authority of India Ltd (supra) while relying upon Ajit Singh, the Hon'ble Supreme Court has observed as under:

"82. We may, however, hasten to add that we do not intend to lay down a law that the protest in regard to making of an award must be done in a manner specified expressly. When an application for reference is filed, protest to the award is implicit as has been held by this Court in Ajit Singh and Ors. v. State of Punjab and Ors. [(1994) 4 SCC 67]: (7994 AIR SCW 2459). "5. Having regard to the contiguity of these lands the High Court is correct in its valuation. Besides, the date of notification, issued under Section 4 of the Act, is October 4, 1978 while Exh. R-6 is nearer to it, namely, August 16, 1978, in comparison to Exh. A-6 dated January 14, 1977. Inasmuch as the appellants have filed an application for reference under Section 18 of the Act that will manifest their intention. Therefore, the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. The District Judge and the High Court, therefore, fell into patent error in denying the enhanced compensation to the appellants."

52. In the case of **Chandra Bhan** (Dead) (Supra) the Hon'ble Supreme Court has held that, the principal contention urged by learned counsel for the GDA was that since the compensation was accepted by the claimants without any protest, the reference was not maintainable. It was held that since the appellants therein had filed an application for reference under Section 18 of the Act, it manifested their intention. Consequently, the protest against the award of the Collector was implied notwithstanding the acceptance of compensation.

53. In the case of **S.K. Containers Private Limited** (Supra) the Hon'ble Supreme Court held that once an application under Section 18 of the Act is filed, the presumption under law is that the owner or the person interested in the land has certain objections with regard to (i) measurement of the land, (ii) amount of compensation, (iii) persons to whom it is payable and (iv) apportionment of the compensation.

54. From the aforesaid propositions of law as laid down by the Hon'ble Supreme Court, it is discernible that a right to make a reference flows only upon the condition precedent being satisfied that the award was accepted with

protest and further, that the intention for such protest manifests itself upon an application being filed for a reference. The protest against the award of the Collector is implied notwithstanding the acceptance of the compensation, in the event an appropriate application for reference is made by the claimant and only such claimants who make an application are alone entitled to seek a reference. Although the aforesaid judgments pertain to Section 18 of the Land Acquisition Act of 1894 ('LA Act of 1894'), the provision of Section 18 of the LA Act of 1894 and Section 64 of the LA Act of 2013, as regards the requirements of being a person who has not accepted the award of the Collector, being *pari materia*, the pronouncement of the Supreme Court as regards Section 18 of the LA Act of 1894 would also be applicable to Section 64 of the LA Act of 2013.

55. Reverting back to the present case, as noted above, admittedly the compensation amount was credited to the bank account of respondent No. 3 on 14.03.2022, and on the same day, respondent No. 3, vide its letter dated 14.03.2022, conveyed that the amount had been received under protest as to the sufficiency of the amount and without prejudice to its rights, which was received on 16.03.2022. Therefore, it appears that, though no objection was raised to the award by the respondent No. 3 during the acquisition proceedings, the amount of compensation was seen to have been received under protest. The acceptance or protest presupposes the existence of a valid and operative award. Since the award became effective only on 02.03.2022, any correspondences prior thereto would be inconsequential for determining acceptance or protest. Thus, in my view, the protest should be contemporaneous with the receipt of compensation and the respondent No. 3 having received the compensation under protest on 14.03.2022 contemporaneously, the reference would be maintainable.

56. In view of what has been discussed hereinabove, this Court finds no infirmity in the order dated 16.09.2022 passed in LA Misc. Case No. 01/2022 and the order dated 18.11.2024 passed in Misc. Case No. 06/2024 in LA Reference Case No. 02 of 2023 by the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, Jorhat. Thus, LA Reference Case No. 02/2023 before the District and Sessions Judge-cum-Land Acquisition and Rehabilitation and Resettlement Authority, Jorhat, is maintainable.

57. Accordingly, writ petition stands dismissed. Cost(s) made easy.

JUDGE

Comparing Assistant