

GAHC010046032022



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

Case No. : WP(C)/1719/2022

BAP CHANDRA BORTHAKUR AND ANR
S/O. LT. JAGANNATH BORTHAKUR R/O. RAGHUBARI, P.O. DIKHAWMUKH,
P.S. GAURISAGAR, DIST. SIVASAGAR, PIN-785664.

2: PRADIP BORTHAKUR
S/O. BAP CHANDRA BORTHAKUR R/O. RAGHUBARI
P.O. DIKHAWMUKH
P.S. GAURISAGAR
DIST. SIVASAGAR
PIN-785664

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY COMM. AND SECY. TO THE GOVT. OF ASSAM, WATER RESOURCE
DEPTT., SACHIVALYA, DISPUR, ASSAM, PIN-781006.

2:THE DEPUTY COMMISSIONER

SIVASAGAR
ASSAM
PIN-785640.

3:THE ADDL. DEPUTY COMMISSIONER (LAND ACQUISITION)
DIST. SIVASAGAR
ASSAM
PIN-785640.

4:THE CIRCLE OFFICER

SIVASAGAR
PIN-785664.

5:THE EXECUTIVE ENGINEER

WATER RESOURCE DIVISION
SIVASAGAR
PIN-785664

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

31-03-2022

Heard Mr. S Borthakur, learned counsel for the petitioners and Mr. B Goswami, learned Additional Advocate General, Assam as well as Standing Counsel, Water Resources Department assisted by Mr. P Kakati, learned counsel for all the respondent Nos. 1 to 5.

It is stated that for the scheme of "A-E measures including widening of Dikhou Bund L/Bank at different reaches from Namdang outfall to Dikhowmukh" the land of the petitioner was taken over in a land acquisition proceeding vide L/A. Case No. 22/1997-98 for which though an amount of Rs.1,11,052.00/- was calculated for compensation for acquisition of the land of the petitioner, the same has not yet been paid.

The petitioners also stated that now the respondents in the Water Resources Department under the scheme of "Immediate measures for restoration of breach like damages at Raghubari Reach-2 on the Dikhow bund left bank from Namdung to Dikhowmukh under SDRF for 2019-2020" entered into his land and damaged/ uprooted various trees. Being aggrieved with such action of the respondents in the Water Resources Department the petitioner has preferred this writ petition stating that in the name of immediate measures for restoration of breach and damages in the dyke concerned the respondent cannot enter into his Patta land without following the due procedure of law and the provision of Article 300A of the Constitution of India, depriving him from all the benefits from his said Patta land.

Issue Notice, returnable by **4 weeks**.

As Mr. P Kakati, learned Standing Counsel, Water Resource Department has accepted notices on behalf of all the respondent Nos. 1 to 5, no formal notice need to be issued to those respondents.

Petitioners shall serve requisite extra copies of this writ petition including the annexures appended thereto to Mr. P Kakati, learned counsel by tomorrow i.e. **01.04.2022**, , obtaining necessary acknowledgements from him in that regard.

Pendency of this writ petition shall not be a bar for the respondents in the Water Resources Department as well as the District Revenue Administration of Sivsagar District to take possession of the land of the petitioner if it comes under the purview of the said scheme of 2019-2020 as noted above, but the same shall be in accordance with law and following the due procedure.

List accordingly.

JUDGE

Comparing Assistant