

GAHC010239552024



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

Case No. : WP(C)/6072/2024

SOLEMAN ALI AND 4 ORS.
S/O- LATE NUR HUSSAIN, R/O- VILL.- KHANDIKAR, MOUZA- KAURBAHA,
DIST. TAMULPUR, ASSAM

2: RAFIQUDDIN AHMED
S/O- LATE NUR HUSSAIN
R/O- VILL.- KHANDIKAR
MOUZA- KAURBAHA
DIST. TAMULPUR
ASSAM

3: KHAIRUL HUSSAIN
S/O- LATE NUR HUSSAIN
R/O- VILL.- KHANDIKAR
MOUZA- KAURBAHA
DIST. TAMULPUR
ASSAM

4: MAHSIN ALI
S/O- LATE NUR HUSSAIN
R/O- VILL.- KHANDIKAR
MOUZA- KAURBAHA
DIST. TAMULPUR
ASSAM

5: ABDUL HAMID
S/O- LATE NUR HUSSAIN
R/O- VILL.- KHANDIKAR
MOUZA- KAURBAHA
DIST. TAMULPUR
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE EXECUTIVE ENGINEER
BTR
PWD (ROAD)
TAMULPUR
P.O. AND DIST. TAMULPUR
ASSAM

3:THE DISTRICT COMMISSIONER
TAMULPUR
P.O. AND DIST. TAMULPUR
ASSAM

4:THE CIRCLE OFFICER
GORESWAR REVENUE CIRCLE
P.O. GORESWAR
DIST. TAMULPUR
ASSAM

5:NUR UDDIN
S/O- LATE NIRPATIA SK
R/O- VILL.- KHANDIKAR
MOUZA- KAURBAHA
DIST. TAMULPUR
ASSAM
PIN- 781354

Advocate for the Petitioner : MR. P K ROYCHODHURY, MR. N HAQUE,MR. N G
KUNDU,MR. A K AZAD

Advocate for the Respondent : GA, ASSAM, MS. NISHA BEGUM (R5),MAHIBUR RAHMAN
(R5),SC, BTC,SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 26-08-2025

Heard Mr. P.K.R. Choudhury, learned counsel for the writ petitioners. Also heard Mr.

A. Bhattacharjee, learned standing counsel, P&RD Department appearing for the respondent No. 1, Mr. S. Bora, learned standing counsel, BTC for the respondent No. 2, Mr. H. Sarma, learned Addl. Sr. Govt. Advocate, Assam appearing for the respondent Nos. 3 & 4 and Mr. M. Rahman, learned counsel appearing for the respondent No. 5.

The petitioners by way of instituting the present proceeding, have sought for a direction upon the respondent authorities, more particularly, the respondent No. 3, to disburse the assessed compensation for the land acquired, equally amongst the petitioners and the respondent No. 5.

As projected in the writ petition, the writ petitioners, 05 (five) in number, contend that they are the sons of Late Nur Hussain. Late Nur Hussain along with respondent No. 5, jointly acquired a title in respect of a land covered by Dag Nos. 646, 1157 in Patta No. 184, of village Khandikar, Mouza Kaurbaha under Goreswar Revenue Circle in Tamulpur district, from one Musstt. Nila Musalmani by way of a registered gift deed on 17-05-1980. Nur Hussain having passed on, his heirs, i.e. the petitioners, herein, got their respective names mutated in the land records. Accordingly, the petitioners now claim that they along with respondent No. 5, are the joint pattadars of the plot of land covered by Dag No. 646, 1157 in Patta No. 184.

The respondents in the year 2023, acquired the land, which the petitioners and the respondent No. 5, are the joint pattadars, for "Improvement and Upgradation of Road from Rangia to Kaurbaha to Nagrijuli Road", under the Assam Mala project. Thereafter, the due compensation for the land so acquired, was assessed, along with the zirat compensation payable. However, in the statement so prepared for disbursement of the

amount of the compensation assessed, the petitioners found that the land covered by Dag No. 1157 has been shown in two parts, i.e. 1 Katha of land to be under possession of Nuruddin Ahmed, i.e. the respondent No. 5 and 2 Lessa of land to be under the possession of the petitioner No. 4, herein. On the basis of said possession, land compensation came to be assessed and accordingly, Nuruddin Ahmed (respondent No. 5) was shown to be entitled to receive an amount of Rs. 12,90,531.58 (Twelve Lakhs Ninety Thousand Five Hundred Thirtyone and Fifty Eight Paise) only and the petitioner No. 4 was shown to be entitled to receive an amount of Rs. 45,000/- (Forty Five Thousand) only. The names of the other petitioners, however, did not figure in the said list so prepared. The representation submitted by the petitioners having not received its due consideration, the petitioners had instituted the present proceeding.

This Court vide order dated 20-11-2024, noticing submission made by the petitioners in the present proceeding, as well as the fact that the land involved was not partitioned, was pleased to pass an interim direction to the effect that the amount of compensation if not disbursed, the same shall not be disbursed until the next date fixed. The interim order continues to hold the field as on date.

The learned counsel for the parties submits that the land involved has been acquired under the provision of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013". While the respondent No. 5, submits that the land in question has been partitioned in pursuant to family settlement, which was so initiated by the petitioner No. 1, herein, the said position is disputed by the petitioners.

A dispute having arisen in the matter, the compensation as assessed for the land in question being kept in abeyance by this Court, the learned counsel for the parties have submitted that they be permitted to take recourse to the provisions of Section 76, read with Section 51 of the Act of 2013. The provision of Section 76 pertains to a dispute as regards the apportionment, when the amount of compensation has been settled. The dispute covered by Section 76, pertains to a dispute related to apportionment of the compensation or any part thereof or as to the persons to whom the same or any part is payable. Under such circumstances, it is provided that the Collector may refer the dispute to the Authority. The Authority to whom the dispute would be mandated to be referred, is the authority as contemplated under the provisions of Section 51 of the Act of 2013, i.e. "the Land Acquisition, Rehabilitation and Resettlement Authority". The respondent in the Revenue and Disaster Management Department vide notification dated 27-05-2020, had constituted the Authority to decide disputes under Section 76 of the Act of 2013. A perusal of the said notification dated 27-05-2020 reveals that the Courts of District & Sessions Judge, Kamrup(Metro), Nagaon, Sonitpur, Jorhat and Cachar shall continue to act as "Land Acquisition, Rehabilitation and Resettlement Authority for the respective Revenue Divisions, viz. Lower Assam, Central Assam, North Assam, Upper Assam and Barak Valley division, respectively, until further order.

In view of the dispute arising in the present proceeding and the same being a relatable to a dispute pertaining to apportionment of the compensation amount between the petitioner and the respondent No. 5, relatable to the provision of Section 76 of the Act of 2013, this Court is of the considered view that the matter would be required to be

referred to the Authority as contemplated under the provisions of Section 76 read with Section 51 of the Act of 2013 and the Notification dated 27-05-2020.

In view of the above position, the petitioners as well as the respondent No. 5, are directed to approach the jurisdictional Collector, within a period of 15 days from today, with an application praying for reference of the issue to the Authority under Section 76 of the Act of 2013. The jurisdictional Collector on receipt of such application shall refer the dispute to the Authority as constituted vide Notification dated 27-05-2020. The Authority on receipt of reference, made in the matter from the jurisdictional Collector, shall adjudicate thereupon and pass its order(s) within a period of 03 (three) months from the date of receipt of such reference by it.

Till the decision of the Authority is so received and the manner of apportionment of the compensation amount is determined, the amount of compensation assessed with regard to the acquisition of land involved in the present proceedings shall not be disbursed to either of the parties by the Collector. The disbursement of compensation amount shall be done in accordance with the decision of the Authority.

With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant