

GAHC010212162025



DB

2026:GAU-AS:6951-

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

Case No. : WA/299/2025

BHARATI KALITA
W/O LATE PARAMA KALITA

2: MONOJ KALITA

S/O LATE PARAMA KALITA

3: PANKAJ KALITA

LATE PARAMA KALITA

4: MIKUL KALITA

LATE PARAMA KALITA
ALL ARE R/O VILL. BORPARA
P.O. AND P.S. BOKO
DIST. KAMRUP (R)
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM,
DEPTT OF REVENUE AND DISASTER MANAGEMENT, DISPUR GUWAHATI
-6.

2:THE DIST. COMMISSIONER

KAMRUP
AMINGAON
ASSAM.

3:THE ADDITIONAL DIST. COMMISSIONER

KAMRUP
AMINGAON
ASSAM.

4:THE CIRCLE OFFICER

BOKO REVENUE CIRCLE

5:PRANAB KALITA

S/O LATE PARAMA KALITA
R/O VILL. BORPARA
P.O. AND P.S. BOKO
DIST. KAMRUP (R)
ASSAM.

6:NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.

REPRESENTED BY THE EXECUTIVE DIRECTOR
REGIONAL OFFICE- GUWAHATI
NHIDCL
AGNISHANTI BUSINESS PARK
OPP. AGP OFFICE
GNB ROAD
AMBARI
GUWAHATI
PIN-781001.

7:DEPUTY GENERAL MANAGER (P)

SO- BOKO
NEAR ARUNODAYA HOSPITAL
DAKUAPARA
BOKO
KAMRUP (R)
ASSAM
PIN-781123

Advocate for the Petitioner : MR. S P CHOUDHURY, MS. M BORA,MS B DEVI

Advocate for the Respondent : MS. S SARMA, GA, R-2,3,4, MR. A CHOUDHURY R-5,MR. M KALITA, GA, R-2,3 & 4,MR. C BARUAH, R-6 & 7,MS. N BORDOLOI, SC, REVENUE DEPTT. R-

Linked Case : I.A.(Civil)/3124/2025

BHARATI KALITA AND 3 ORS
W/O LATE PARAMA KALITA

2: MONOJ KALITA

S/O LATE PARAMA KALITA

3: PANKAJ KALITA

LATE PARAMA KALITA

4: MIKUL KALITA

LATE PARAMA KALITA
ALL ARE R/O VILL. BORPARA
P.O. AND P.S. BOKO
DIST. KAMRUP (R)
ASSAM.
VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
DEPTT. OF REVENUE AND DISASTER MANAGEMENT
DISPUR
GUWAHATI 6

2:THE DIST. COMMISSIONER

KAMRUP
AMINGAON
ASSAM.

3:THE ADDITIONAL DIST. COMMISSIONER

KAMRUP
AMINGAON
ASSAM.

4:THE CIRCLE OFFICER

BOKO REVENUE CIRCLE

5:PRANAB KALITA

S/O LATE PARAMA KALITA

R/O VILL. BORPARA
P.O. AND P.S. BOKO
DIST. KAMRUP (R)
ASSAM.

6:BRANCH MANAGER
INDIAN BANK
GAMURIMURA BRANCH
BOKO
KAMRUP
ASSAM

Advocate for : MR. S P CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : I.A.(Civil)/3763/2025

NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED
REPRESENTED BY THE EXECUTIVE DIRECTOR
REGIONAL OFFICE- GUWAHATI
NHIDCL
AGNISHANTI BUSINESS PARK
OPP. AGP OFFICE
GNB ROAD
AMBARI
GUWAHATI
PIN-781001

2: GENERAL MANAGER(P)

SOBOKO
NEAR ARUNODAYA HOSPITAL
DAKUAPARA
BOKO
KAMRUP R
ASSAM
PIN-78112
VERSUS

SMT BHARATI KALITA
W/O LATE PARAMA KALITA

2:SRI MONOJ KALITA
S/O LATE PARAMA KALITA

3:SRI PANKAJ KALITA

S/O LATE PARAMA KALITA

4:SRI MIKUL KALITA
S/O LATE PARAMA KALITA
ALL ARE RESIDENTS OF VILLAGE BORPARA
P.O. P.S.-BOKO
DISTRICT- KAMRUP R
ASSAM

5:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
DISPUR
GUWAHATI- 6

6:THE DISTRICT COMMISSIONER
KAMRUP
AMINGAON
ASSAM

7:THE ADDITIONAL DISTRICT COMMISSIONER
KAMRUP
AMINGAON
ASSAM.

8:THE CIRCLE OFFICER
BOKO REVENUE CIRCLE

9:SRI PRANAB KALITA
S/O. LATE PARAMA KALITA
R/O- VILLAGE BORPARA
P.O. P.S.- BOKO
DISTRICT KAMRUP R
ASSAM

Advocate for : MR C BARUAH
Advocate for : GA
ASSAM appearing for SMT BHARATI KALITA

Linked Case : I.A.(Civil)/750/2026

NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT

CORPORATION LIMITED
REPRESENTED BY THE EXECUTIVE DIRECTOR
REGIONAL OFFICE- GUWAHATI
NHIDCL
AGNISHANTI BUSINESS PARK
OPP. AGP OFFICE
GNB ROAD
AMBARI
GUWAHATI
PIN-781001

2: DEPUTY GENERAL MANAGER(P)
SO- BOKO
NEAR ARUNODAYA HOSPITAL
DAKUAPARA
BOKO
KAMRUP R
ASSAM
PIN-781123
VERSUS

SMT BHARATI KALITA
W/O LATE PARAMA KALITA

2:SRI MONOJ KALITA

S/O LATE PARAMA KALITA

3:SRI PANKAJ KALITA

S/O LATE PARAMA KALITA

4:SRI MIKUL KALITA
S/O LATE PARAMA KALITA
ALL ARE RESIDENTS OF VILLAGE BORPARA
P.O. AND P.S.-BOKO
DISTRICT- KAMRUPR
ASSAM ... WRIT APPELLANTS

5:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
DISPUR
GUWAHATI-6

6:THE DISTRICT COMMISSIONER
KAMRUP
AMINGAON
ASSAM

7:THE ADDITIONAL DISTRICT COMMISSIONER
KAMRUP
AMINGAON
ASSAM.

8:THE CIRCLE OFFICER
BOKO REVENUE CIRCLE

9:SRI PRANAB KALITA
S/O. LATE PARAMA KALITA
R/O- VILLAGE BORPARA
P.O. AND P.S.- BOKO
DISTRICT KAMRUP R
ASSAMRESPONDENTS IN WA NO. 299/2025

For the petitioner/appellant(s) : Mr. S.P. Choudhury, Advocate

For the Respondent(s) : Mr. C. Boruah, SC, NHAI
Mr. Z. Dutta, Advocate
Ms. N. Bordoloi, SC, Revenue

- B E F O R E -

**HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY**

20.05.2026

(Ashutosh Kumar, CJ)

The appellants have questioned the judgment dated 22.08.2025, passed by a learned Single Judge of this Court in WP(C) No. 4853/2025, thereby relegating the appellants to vent their grievance before the Principal Civil Court of original jurisdiction, within the limits of whose jurisdiction the land, which was consumed, is situated.

To recount the facts, in short, the appellant No. 1, the wife of Late

Parama Kalita, had constructed a house over the land belonging to her husband, after taking due approval from the authorities. Her contention primarily was that the other heirs of Late Parama Kalita, namely, his sons and daughters, had received lands as Class-1 heirs.

As the land in question was acquired by the National Highways Authority of India (NHAI), a notice under section 3E of the National Highways Act, 1956 (hereinafter referred as "Act of 1956) was issued to the appellant for payment of compensation, pursuant to which the appellant No. 1 had submitted all required documents, including proof of construction of an RCC building along with building permission and lease deed showing that the building was rented out. However, it appears that because of some objections raised by the sons and daughters of her late husband, particularly, respondent No. 5, compensation was not paid to the appellant.

The appellant No. 1 appears to have filed a detailed written objection countering the claim of the respondent No. 5 and others. The grounds raised in such written objection were that after the death of her husband, all other legal heirs had inherited the land and that she had constructed an RCC building over the land with valid permission and No Objection Certificate.

Based on these two fact situations, the appellant No. 1 claims that she had absolute right to receive Zirat compensation in respect of the structure.

It further appears from the records that the concerned Additional District Commissioner had sought information from the Circle Officer regarding the position as also Zirat compensation proposal in the name

of the appellant No. 1. The Circle Officer, however, submitted a report, ostensibly after a field verification, that the land was in possession of the respondents.

The appellant No. 1 claims that such verification was done in her absence and even without any notice to her. However, relying on such verification report submitted by the Circle Officer, the Additional District Commissioner rejected the claim of the appellants of receiving Zirat compensation for the structure.

This decision of the Additional District Commissioner was challenged by the appellants before this Court, as referred above, vide WP(C) No. 4853/2025.

The learned Single Judge, on the ground of alternative/efficacious remedy being available to the appellants, dismissed the writ petition, directing her to approach the Principal Civil Court of original jurisdiction in accordance with Section 3H(4) of the Act of 1956.

Under Section 3G(5) of the Act of 1956, in case of any dispute regarding determination of the amount payable as compensation, the claimants have a right to have the issue decided/determined by an Arbitrator to be appointed by the Central Government. In case of any dispute over the determination of shares of the compensation amount amongst the claimants, the competent authority, which, in this case, is the Additional District Commissioner, is required to refer the dispute to the Principal Civil Court of original jurisdiction, within the limits of whose jurisdiction the land is situated.

There is no provision under Section 3H(4) for the aggrieved party to directly approach the Principal Civil Court of original jurisdiction, in case

of any dispute raised with respect to determination of the shares of the compensation.

Under the afore-noted circumstances, we find that the correct course for the Additional District Commissioner [Competent Authority for Land Acquisition (CALA)] was to have referred the dispute before the Principal Civil Court of original jurisdiction, rather than determining the issue and rejecting the claim of the appellants.

We are also not in agreement with the reasoning of the learned Single Judge regarding the appellant No. 1 not having exhausted the alternative remedy available to her under Section 3H(4). This reasoning is perhaps based on an understanding that in case of any dispute after the determination by the CALA, the forum to challenge the same would be the Principal Civil Court of original jurisdiction, which is not the correct proposition in accordance with the scheme of the provision.

Left with no other option, we set aside the order passed by the CALA, as also the order of the learned Single Judge, which has been impugned in the present appeal, and direct that in the event of the appellants/appellant No. 1 approaching the CALA with her objection with respect to the apportionment of the compensation amount, the CALA would issue notice to the other claimants, whereafter the matter shall be referred to the Principal Civil Court of original jurisdiction, within the limit of whose jurisdiction the land in question is said to be situated.

It is expected that such decision shall be taken by the CALA within a period of four weeks of the appellants approaching it.

Since Mr. Z. Dutta, learned counsel has appeared for the respondent No. 5, the respondent No. 5 and other claimants also could appear

before the CALA and have the matter referred to the Principal Civil Court of original jurisdiction for proper apportionment of the shares of the compensation in accordance with their entitlement.

The appeal stands allowed to the extent indicated above.

The Interlocutory Application accordingly stands disposed off

JUDGE

CHIEF JUSTICE

Comparing Assistant