

GAHC020007222023



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

Case No. : WP(C)/321/2023

MR. IMISENBA
S/O IMSUMEREN
R/O VILLAGE- MERANGKONG
P.O. TULI
DIST- MOKOKCHUNG-798618

VERSUS

THE UNION OF INDIA AND 9 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INBDIA, MINISTRY OF
ROAD, TRANSPORT AND HIGHWAYS, NEW DELHI-110001 2:THE
COMMISSIONER AND SECRETARY
ROAD
TRANSPORT AND HIGHWAYS DEPT.
P.O AND P.S- KOHIMA
NAGALAND

3:THE CHIEF ENGINEER
PWD (NH)
KOHIMA NAGALAND

4:THE EXECUTIVE ENGINEER
PWD NATIONAL HIGHWAY
DIVISION-II MOKOKCHUNG
P.O- MOKOKCHUNG
NAGALAND

5:THE EXECUTIVE ENGINEER
PWD (R AND B)
FEEDER ROADS DIVISION
TULI
NAGALAND
MOKOKCHUNG NAGALAND

6:THE DEPUTY COMMISSIONER
MOKOKCHUNG NAGALAND

7:THE ADDITIONAL DEPUTY COMMISSIONER
TULI
MOKOKCHUNG NAGALAND

8:THE SUB-DIVISIONAL OFFICER
O/O DEPUTY COMMISSIONER
MOKOKCHUNG NAGALAND

9:THE AGRICULTURE OFFICER
O/O SUB-DIVISIONAL AGRICULTURE OFFICER
TULI NAGALAND

10:M/S KKB PRJECTS PVT. LTD
A 408-409
CITY CENTRE
NR. RESHAM NHAVAN
LAL DARWAJA SURAT
GUJARAT-39500

Advocate for the Petitioner : K TSUKRU,

Advocate for the Respondent : CGSC,

Linked Case : WP(C)/236/2023

MR. IMISENBA
S/O IMSUMEREN
R/O MERANGKONG VILLAGE
P.O. TULI
PIN-798618
MOKOKCHUNG NAGALAND

VERSUS

THE UNION OF INDIA AND 8 ORS
REPRESENTED BY THE SECRETARY
TO THE GOVT. OF INDIA
MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS- NEW DELHI- 110001

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF NAGALAND
ROAD TRANSPORT AND HIGHWAYS DEPARTMENT

P.O. AND P.S. KOHIMA
KOHIMA NAGALAND

3:THE CHIEF ENGINEER
PWD (NATIONAL HIGHWAY)
KOHIMA NAGALAND

4:THE EXECUTIVE ENGINEER
PWD NATIONAL HIGHWAY DIVISION-II
MOKOKCHUNG
P.O. MOKOKCHUNG
NAGALAND

5:THE EXECUTIVE ENGINEER
PWD (R AND B)FEEDER ROADS DIVISION TULI NAGALAND
MOKOKCHUNG NAGALAND-798618

6:THE DEPUTY COMMISSIONER
MOKOKCHUNG NAGALAND

7:THE ADDITIONAL DEPUTY COMMISSIONER
TULI NAGALAND

8:THE SUB DIVISIONAL OFFICER
O/O THE DEPUTY COMMISSIONER
MOKOKCHUNG NAGALAND

9:M/S KKB PROJECT PVT. LTD
A 408-409
CITY CENTRE
NR. RESHAM BHAVAN
LAL DARWAJA
SURAT GUJARAT-395003

Advocate for : K. TSUKRU
Advocate for : CGSC appearing for THE UNION OF INDIA AND 8 ORS

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

03.02.2025

Heard Ms. M Borah, learned counsel for the petitioners and Mr. L T Sangtam, learned Additional Advocate General, Nagaland for the State respondents. Also

heard Ms. Apila Sangtam, learned counsel for the private respondent No. 9/10.

2) Office of the Chief Engineer, PWD, National Highways, Government of Nagaland at Kohima took up the project for widening of existing single lane/intermediate lane to 2 (two) lanes. For that purpose, from km 156.000 (DEF) to km 168.000 (Yisemyong) and from km 185.000 (Unger) to km 220.000 (Assam Rifle Gate, Tuli) the Sub-Divisional Officer (Civil), Office of the Deputy Commissioner, Mokokchung, Nagaland issued a direction vide Circular dated 18.01.2021 for a joint verification w.e.f. 18.01.2021 that was conducted by a team comprising of various officials including the Additional Deputy Commissioner, Tuli; Sub Divisional Officer (Civil), Changtungya; Extra Assistant Commissioners of Ongpangkong, Kunbulong and Chuchuyimlang; Executive Engineer, PWD, National Highway Division, Mokokchung; Superintendent of Police, Mokokchung; Commandant of 23 Assam Rifles; Joint Director of State Agricultural Research Station, Yisemyong; Divisional Forest Officer, Mokokchung; District Horticultural Officer, Mokokchung; District Fishery Officer, Mokokchung; Project Officer, Land Resources, Mokokchung; Executive Engineer, Public Health Engineering, Mokokchung; Executive Engineer, PWD (H), Mokokchung; Executive Engineer, Power, Mokokchung; Village Councils of Chuchuyimlang, Sungratsu, Mongsenyimti, Unger, Akheya Chengtang, Yaongyimchen, Liro Model village, Nukshiyam and Merangkong Villages.

3) The Village Council of Merangkong village representing all the members of the said village agreed with the department concerned for construction/widening of the National Highway No.02 to two lanes within their own village jurisdiction, i.e., LOC 201.000 km to LOC 225/200 km, giving an undertaking that they will not claim land compensation for any area of land to be utilised for the said purpose of widening of NH-02 to two lanes, i.e., a minimum of 22.5 meters on either side from the centre line of the road, with the condition that wherever developed land such as plantations, fishery ponds, infrastructure such as buildings, shifting of utilities etc. are involved, those should be properly assessed by the concerned department and the administration and that they should be compensated accordingly for the said purpose.

4) Petitioner owns a plot of land measuring 4 (four) hectares at Tsurangkong area of village Merangkong, Tuli in the district of Mokokchung, Nagaland at NH-02 (old NH-61), bounded at North, South and West by NH-02 and at East by Lepokmeren, over which, he had one RCC two storied in-complete building consisting of 21 Nos. of rooms, one semi RCC house and also a village type residential house along with other horticulture products. In addition to that, in the remaining area over his said land, he had a small tea garden with Nos. of shed trees.

5) For construction/widening of existing single lane/intermediate lane to two lanes, land of the petitioner at village Merangkong, noted above, was also taken over.

6) During such joint verification w.e.f. 18.01.2021, noted above, all the stakeholders of village Merangkong, including the petitioner participated in the said verification process.

7) It is to be noted herein that for widening of existing single lane of new NH-02, old NH-61 to two lanes from Km 185.00 to km 220.00 at village Merangkong, Tuli, district - Mokokchung, Nagaland; the Chief Engineer, PWD,

National Highways, Nagaland allotted the said work to the respondent No. 9 in WP(C) No. 236/2023, who is the respondent No. 10 in WP(C) No. 320/2023 and both the writ petitions have been preferred by the same petitioner.

8) On the basis of said joint verification report and assessment, the petitioner stated that he was paid Rs. 1,96,800/- for his horticultural products and Rs. 8,21,000/- for his 5,300 Nos. of tea bushes (@ Rs. 155 per tea bush) and for 1,500 Nos. of shed trees that was paid to him by the said respondent No. 9/10, noted above.

9) Aggrieved by such assessment of damage compensation and said payment made to him, the petitioner has filed these two writ petitions claiming for higher damage compensation, in WP(C) No. 236/2023 for his houses, horticultural products, etc., and in WP(C) No. 321/2023 for the tea bushes and shed trees, standing over his said land that were removed and damaged while widening the NH-02 to two lanes at village Merangkong, Tuli, district-Mokokchung.

10) Mr. L T Sangtam, learned Additional Advocate General, Nagaland from the affidavit of the State respondents, filed on 24.09.2024 placed before the Court that on 20.11.2021 the petitioner received Rs. 13,67,198/- from the Deputy Commissioner, Mokokchung as compensation for the damages to his structures, properties, crops and plantations at location 217/440 to 700 (i), 217/020 to 217/230 (L), 217 to 400 to 217/7 during widening of NH-02 to two lanes from Unger to Assam Rifle Gate, Tuli at Km. 185 to Km. 220 under Mokokchung district.

11) It is seen that after receiving such money as compensation for damages by the petitioner on 20.11.2021, he filed WP(C) No. 236/2023 on 16.10.2023 and WP(C) No. 321/2023 on 08.12.2023, after about 2 years, for higher compensation for the damages.

12) Contention of the petitioner is that without following the provisions of the Land Acquisition Act, 1984; the National Highways Act, 1956 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 the respondents have acquired his land at village Merangkong, Tuli along with tea garden having 5,300 Nos. of tea bushes; 1,500 Nos. of shed trees, RCC houses, Assam type houses and horticultural products on it for widening the NH 02 to two lanes at village Merangkong, without following the mandates of the relevant Acts and without paying him due compensation, for which he sustained huge financial losses.

13) It is to be mentioned herein that Section 3-J of the National Highways Act, 1956 stipulates that – *Nothing in the Land Acquisition Act 1984 shall apply to an acquisition in the said 1956 Act.*

14) In both the writ petitions, the State respondents filed their respective affidavits on 24.09.2024. On perusal of those two affidavits, it is seen that the State respondents did not state under which provisions of law such compensation for damages were assessed while taking over the land of the petitioner for widening the NH-02 to two lanes at village Merangkong, Tuli, District-Mokokchung, Nagaland.

15) As such, the Commissioner and Secretary to the Government of Nagaland, Road Transport and Highways Department, Kohima, Nagaland respondent No. 2 and the Deputy Commissioner, District-Mokokchung, Nagaland respondent No. 6, by filing their respective affidavits, shall apprise the Court as to the procedure

adopted by them in determining compensation for the damages of structures, properties, crops and plantations of the petitioner while taking over his said land for widening of NH-02 to two lanes at village Merangkong, Tuli from Km 185 to Km 220 under Mokokchung district of Nagaland.

16) The respondent Nos. 2 and 6, named above, shall file their respective affidavits **on or before 19.02.2025**, by serving copies to the counsel for the petitioner.

17) List on **21.02.2025**.

18) Furnish a copy of this order to Mr. L T Sangtam, learned Additional Advocate General, Nagaland for his necessary use.

JUDGE

Comparing Assistant