

GAHC040005222025



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

Case No. : WA/18/2025

M/s Peto Dumpum Enterprise and Anr
B Sector, Near Raj Bhawan, Itanagar, Papum Pare District, Arunachal Pradesh 791111
represented by Mrs Yamje Loriak Tamin, Daughter of Kirjom Dulom, resident of B
Sector, Itanagar, PO and PS Itanagar, Papum Pare District, Arunachal Pradesh 791111
2: Tapu Loriak Tamin

Age:

Occupation :

Son of Shri Jita Loriak

resident of Block-2C

RKM Hospital

PO and PS Itanagar

Papum Pare District

Arunachal Pradesh 79111

VERSUS

The Union of India and 6 Ors

represented by the Secretary, Govt of India, Ministry of Defence, 101-A, South
Block, New Delhi. 2:The Border Road Organization

Age: 0

Occupation :

represented by Director General

Ministry of Defence

Seema Sadak Bhawan

Ring Road

Naraina

Delhi Cant

New Delhi 110010

3:The Chief Engineer BRO cum Authority Engineer

Age: 0

Occupation :

BRO Project BRAHMANK

C/o APO
Pasighat
AP 931722

4:The Commander BRO cum Team Leader cum Senior Highway Engineer
Age: 0
Occupation :
HQ 44
Border Roads Task Force
Pin 930044
C/o 99 APO

5:The Deputy Commissioner
Age: 0
Occupation :
Tato
Shi Yomi District
Arunachal Pradesh.

6:Valecha Engineering Ltd
Age: 0
Occupation :
CIN No. 174210MH1977PLC019535
office at Plot No.B-6
7th Floor
Lokhandwala Complex
Valecha Chambers
new Link road
Andheri West
Azad Nagar
Mumbai
Maharashtra 400053

7:The ICICI Bank Limited
Age: 0
Occupation :
Itanagar Branch
Arunachal Pradesh
represented by its Branch Manager
Branch office at ICICI Bank Ltd
ESS Sector
NH 52A near JNK School
Itanagar
Arunachal Pradesh 79111

Advocate for the Petitioner : P J Saikia, Arun Yun, Maryum Sora, Geli Taye, Kemo Lollen, K J Saikia, Manisha Nirola

Advocate for the Respondent : Marto Kato, GA (AP),DSGI

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

22.04.2025

[Manish Choudhury, J]

Heard Mr. P.J. Saikia, learned Senior Counsel assisted by Ms. M. Nirola, learned counsel for the appellants. Also heard Mr. M. Kato, learned Deputy Solicitor General of India [DSGI] for the respondent nos. 1, 2, 3 & 4; and Ms. P. Pangu, learned Junior Government Advocate, Arunachal Pradesh for the respondent no. 5.

2. This intra-court appeal is directed against a Judgment and Order dated 04.03.2025 passed by the learned Single Judge in the writ petition, W.P.[C] no. 3/2024.

3. The learned Single Judge has disposed of the writ petition, W.P.[C] no. 3/2024 with the following directions :-

[i] In terms of the joint verification, regarding the work executed by the petitioners, having already been carried out by the respondent authorities and a report thereof being prepared, a work completion certificate to that extent what the petitioners had executed, shall be issued to them by the respondent Nos. 1 to 4.

[ii] In respect of the issue of liquidated damages, compensation and releasing of the performance bank guarantee etc., the petitioners stand relegated to seek redress in an appropriate Civil Court for recovery of the amount forfeited by the respondent authorities, if so advised.

[iii] All pending bills, if not paid in the meantime, shall be released in favour of the petitioners in terms of joint verification report.

4. Mr. Saikia, learned Senior Counsel appearing for the appellants has submitted that the appellants are not aggrieved by the directions given in [i] and [iii]. However, the appellants are aggrieved by the direction given in [ii].

5. The subject-matter of the writ appeal is a contract-work, 'Construction and upgradation of Tato-Mechuka Road [design chainage from km 33.100 to km 41.275 and existing chainage from km 36.000 to km 45.410] to 2 lane with hard shoulders under project Brahman in the State of Arunachal Pradesh on EPC Mode [Pkg III]' ['the Contract-Work', for short]. The Contract-Work was awarded to the respondent no. 6 on 15.06.2021 and the Letter of Acceptance [LoA] was issued in favour of the respondent no. 6 on 22.02.2021. Subsequent to the LoA, the appellant no. 1 was brought in as a sub-contractor by the respondent no. 6 in order to execute the Contract-Work to the extent of 49% value of the Contract-Work amounting to Rs. 33,23,67,000/- out of the total contract value of Rs. 67,83,00,000/-. It is the contention of the appellants that the appellants had deposited a bank guarantee of Rs. 2,03,49,000/- on behalf of the respondent no. 6, that is, the principal contractor and thereafter, proceeded to execute his part of the Contract-Work and had, thus, entitled to receive 49% value of the Contract-Work. However, the authority in the respondent BRO cancelled the Contract-Work pursuant to a termination notice dated 16.12.2023 on the ground that the Contract-Work was executed only upto the extent of 26.21% and the rate of progress was not satisfactory.

6. Mr. Kato, learned DSGI has submitted that after the Judgment and Order dated 04.03.2025, the bank guarantee amounting to Rs. 2,03,49,000/-has been encashed.

7. The matter would require consideration.

8. Let notice be issued to the respondents. The notice is made returnable on 26.05.2025.

9. As Mr. Kato, learned DSGI has appeared and accepted notices on behalf of the respondent nos. 1, 2, 3 & 4 and Ms. Pangu, learned Junior Government Advocate, Arunachal Pradesh has appeared and accepted notice on behalf of the respondent no. 5, issuance of

formal notice to the said respondents stands dispensed with. Ms. Nirola, learned counsel for the appellants shall furnish requisite nos. of extra copies of the writ appeal along with annexures to Mr. Kato and Ms. Pangu within 3 [three] working days from today.

10. The appellants shall take steps for service of notice upon the respondent no. 6 and the respondent no. 7 by registered post with A/D within 3 [three] working days from today.

11. List the case on 26.05.2025.

JUDGE

JUDGE

Comparing Assistant