

GAHC010060742018



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

**Case No. : WP(C)/1889/2018**

SWETA DEVI

W/O RAJESH KUMAR GUPTA, R/O HOUSE NO. 320, SURVEY, BASISTHA  
ROAD, PS HATIGAON, DIST. KAMRUP (M), ASSAM

VERSUS

STATE OF ASSAM AND 3 ORS.

REPRESENTED BY THE SECRETARY REVENUE TO THE GOVT. OF ASSAM,  
LAND REVENUE DEPARTMENT, JANATA BHAWAN, DISPUR, GUWAHATI-  
781006, DIST. KAMRUP (METRO), ASSAM

2:THE COLLECTOR KAMRUP (METRO)  
PANBAZAR  
GUWAHATI-781001  
DIST. KAMRUP (METRO)  
ASSAM

3:THE CIRCLE OFFICER  
DISPUR CIRCLE OFFICE  
NH-37  
GUWAHATI  
DIST. KAMRUP(METRO)  
ASSAM

4:INDIAN OIL CORPORATION LTD.  
HEREIN REPRESENTED BY THE DEPUTY GENERAL MANAGER  
NOONMATI  
GUWAHATI-781020  
DIST. KAMRUP (METRO)  
ASSA

Linked Case : WP(C)/1999/2018

DHRUBA DEKA  
S/O. SRI. UPEN DEKA  
RESIDENT OF DEBADARU PATH  
DISPUR  
GUWAHATI-781006  
DIST.- KAMRUP(M)  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY SECRETARY REVENUE TO THE GOVERNMENT OF  
ASSAM  
LAND REVENUE DEPARTMENT  
JANATA BHAWAN  
DISPUR  
GUWAHATI-781006  
DISTRICT- KAMRUP(METRO)  
ASSAM.

2:THE COLLECTOR KAMRUP(METRO)  
PANBAZAR  
GUWAHATI-781001  
DISTRICT- KAMRUP(METRO)  
ASSAM.

3:THE CIRCLE OFFICER  
DISPUR CIRCLE OFFICE  
NH-37  
GUWAHATI  
DISTRICT- KAMRUP(METRO)  
ASSAM.

4:INDIAN OIL CORPORATION LTD.

HEREIN REPRESENTED BY THE DEPUTY GENERAL MANAGER  
NOONMATI  
GUWAHATI-781020  
DISTRICT- KAMRUP(METRO)  
ASSAM.

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Linked Case : WP(C)/2028/2018

DEEPA GUPTA  
W/O- SHRI RAVI KR GUPTA  
R/O- H/NO. 320  
SURVEY  
BASISTHA ROAD  
P.S. HATIGAON  
DIST- KAMRUP (M)  
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REP. BY THE SECRETARY REVENUE TO THE GOVT. OF ASSAM  
LAND REVENUE DEPTT.  
JANATA BHAWAN  
DISPUR  
GHY-6  
DIST- KAMRUP (M)  
ASSAM

2:THE COLLECTOR KAMRUP (M)  
PANBAZAR  
GHY-1  
DIST- KAMRUP (M)  
ASSAM

3:THE CIRCLE OFFICER  
DISPUR CIRCLE OFFICE  
NH-37  
GHY  
DIST- KAMRUP (M)  
ASSAM

4:INDIAN OIL CORPORATION LTD.  
HEREIN REP. BY THE DEPUTY GENERAL MANAGER  
NOONMATI  
GHY-20  
DIST- KAMRUP (M)  
ASSAM

Linked Case : WP(C)/2015/2018

NARAYAN MANDAL  
S/O LATE NIBARAN MANDAL

R/O RAHKHALA PATH  
FATASIL AMBARI  
PS- FATASIL AMBARI  
GUWAHATI-781025  
DIST. KAMRUP (M)  
ASSAM

VERSUS

STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY THE SECRETARY REVENUE TO THE GOVT. OF ASSAM  
LAND REVENUE DEPARTMENT  
JANATA BHAWAN  
DISRPUR  
GUWAHATI-781006  
DIST. KAMRUP (METRO)  
ASSAM

2:THE COLLECTOR KAMRUP (METRO)  
PANBAZAR  
GUWAHATI-781001  
DIST.KAMRUP (METRO)  
ASSAM

3:THE CIRCLE OFFICER  
DISPUR CIRCLE OFFICE  
NH 37  
GUWAHATI  
DISTRICT-KAMRUP(METRO)  
ASSAM

4:INDIAN OIL CORPORATION LTD.  
HEREIN REPRESENTED BY THE DEPUTY GENERAL MANAGER  
NOONMATI  
GUWAHATI-781020  
DIST. KAMRUP (METRO)  
ASSAM

Linked Case : WP(C)/2026/2018

RAMESHWAR GUPTA  
S/O- SHRI GANGA PRASAD GUPTA  
R/O- H/NO. 320  
SURVEY  
BASISTHA ROAD  
P.S. HATIGAON

DIST- KAMRUP (M)  
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REP. BY THE SECRETARY REVENUE TO THE GOVT. OF ASSAM  
LAND REVENUE DEPTT.  
JANATA BHAWAN  
DISPUR  
GHY-6  
DIST- KAMRUP (M)  
ASSAM

2:THE COLLECTOR KAMRUP (M)  
PANBAZAR  
GHY-1  
DIST- KAMRUP (M)  
ASSAM

3:THE CIRCLE OFFICER  
DISPUR CIRCLE OFFICE  
NH-37  
GHY  
DIST- KAMRUP (M)  
ASSAM

4:INDIAN OIL CORPORATION LTD.  
HEREIN REP. BY THE DEPUTY GENERAL MANAGER  
NOONMATI  
GHY-20  
DIST- KAMRUP (M)  
ASSAM

Advocate for the Petitioner : Mr. B. D. Konwar, Sr. Advocate  
Ms. B. Soren, Advocate

Advocate for the Respondents: Mr. P. Bharadwaj, Advocate  
Mr. A. Bhattacharjee,  
SC, Revenue

**BEFORE**

**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

Date of Hearing : 27.11.2024

Date of Judgment : 27.11.2024

**JUDGMENT AND ORDER (ORAL)**

Heard Mr. B. D. Konwar, the learned senior counsel assisted by Ms. B. Soren, the learned counsel appearing on behalf of the petitioners. Mr. P. Bharadwaj, the learned counsel appears on behalf of the IOCL; Mr. A. Bhattacharjee, the learned counsel appears on behalf of the Revenue Department of the Government of Assam and Ms. M. Barman, the learned counsel appears on behalf of the District Administration.

2. The instant batch of writ petitions are filed by the petitioners who are aggrieved by the acquisition process carried out in connection with LA Case No.7/2011 whereby their lands have become landlocked and unusable.

3. The case of the petitioners, therefore, is that this Court should issue direction upon the respondent authorities to spare sufficient portions of the land which were acquired for passage for free ingress and egress from the main road to the left out portion of the acquired lands of the petitioners. It is relevant to mention herein that in the said land acquisition proceedings, certain portions of the lands belonging to the petitioners were

acquired. Neither at the time of issuance of the Notification under Section 4 of the Land Acquisition Act, 1894 nor at the time of filing claims at the stage of enquiry, the petitioners objected. They woke up only when the Award was passed and possession was taken and more particularly at the time of construction of the boundary wall.

4. Pursuant to the filing of the instant batch of writ petitions, this Court issued notice and further observed that the petitioners may approach the Deputy General Manager (Operations), State Office, Noonmati, to explore the possibility of a negotiated settlement and if such a move is taken by the petitioners, the respondent No.4 could also explore the possibility of such an amicable settlement.

5. The record further reveals that the approach was made by the petitioners to the said Official of the respondent Corporation, but the same did not receive a favourable response. Under such circumstances, the question arises as to whether this Court, in exercise of the powers under Article 226 of the Constitution, directs the respondent authorities to spare sufficient portions of the land which were acquired for passage of the petitioners for free ingress and egress from the main road.

6. It is a settled principle of law that when in an acquisition proceedings, the award is passed and the possession has been

taken in accordance with Section 17(1) of the Land Acquisition Act, 1894 (for short, 'the Act of 1894') or under Section 16 of the said Act of 1894, the land vests absolutely upon the State without free from all encumbrance {see ***Indore Development Authority vs. Manoharlal***, reported in **(2020) 8 SCC 129 (para-119)**}. It is also seen that pursuant to the vesting of the land, the land also has been handed over to the respondent Corporation the beneficiary and the possession accordingly has been handed over. Mr. P. Bharadwaj, the learned counsel appearing on behalf of the IOCL further submits that all construction activities in the meanwhile have also been completed.

7. Under such circumstances, in the opinion of this Court, the question of issuance of a writ as sought for in the instant proceedings does not arise.

8. Before parting with the record, this Court however finds it relevant to observe that the materials on record show that the petitioners have filed objection to the award as regards the inadequacy of compensation. Sections 26 to 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act of 2013') stipulates what are the basis for determining the compensation. It includes in 'thirdly' of Section 28 of the Act of

2013 that compensation would be awarded if damage is sustained by the persons interested, at the time of the Collector's taking possession of the land, by reason of securing such land from his other land. Under such circumstances, the petitioners are given liberty to amend the objections and if reference had already been made, then amend the claim settlement.

9. With the above observations and directions, the instant batch writ petitions stands disposed of.

**JUDGE**

**Comparing Assistant**