

GAHC010028462019



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

Case No. : WP(C)/1069/2019

HARESWAR PATOWARY AND 13 ORS.
S/O. LT. POSA RAM KEOT, VILL. BARGAON, P.S. BAIHATA CHARIALI, P.O.
BIHDIYA, DIST. KAMRUP, PIN-781381.

2: MD. FOZAL ALI

S/O. LT. KHORSED
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

3: MD. JAVED AKHTAR

S/O. MAJIBAR RAHMAN
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

4: MD. DIDAR ALI

S/O. LT. APSAN ALI
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

5: MD. JAHIR ALI

S/O. SAMEJ ALI
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

6: MAKIBAR RAHMAN

S/O. PAHAR ALI
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

7: MD. FARMAN ALI

S/O. PAHAR ALI
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

8: MD. FIRUJ ASIKIA

S/O. BULUMAJAN
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

9: SYED AHEDUR RAHMAN

S/O. LT. MAHIRUDDIN ALI
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM

PIN-781121.

10: SAYED JAINAL ALI

S/O. AHMAD
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

11: SAYED ALAUDDIN AHMED

S/O. AHMED
VILL. SOLMARI
P.S. BAIHATA CHARIALI
P.O. SALADOL
DIST. KAMRUP
ASSAM
PIN-781121.

12: MD. KHALILUR RAHMAN

S/O. TAIFUDDIN
VILL. PATIDARRANG SALEDOL
P.O. SALADOL
DIST. KAMRUP
ASSAM PIN-781121.

13: MD. KHAIRUL HUSSAIN

S/O. LT. ABDUL RAHMAN
VILL. TULAMATI SALEDOL
VILL. PATIDARRANG SALEDOL
P.O. SALADOL
DIST. KAMRUP
ASSAM PIN-781121.

14: NAJRUL ISLAM

S/O. LT. NUR HUSSAIN SAIKIA
VILL. SOLMARI
P.O. SALADOL
DIST. KAMRUP
ASSAM PIN-781121

VERSUS

THE GENERAL MANAGER, POWER GRID CORPORATION OF INDIA AND 6
ORS.
DONGTIEH, LOWER NOGRAH, LAPALANG, SHILLONG-7793006,
MEGHALAYA.

2:THE GENERAL MANAGER (PROJECT)

POWER GRID CORPORATION OF INDIA LTD.
MONAL TOWER
DISPUR
GUWAHATI-06.

3:THE ADDL. GENERAL MANAGER

POWER GRID CORPORATION OF INDIA LTD.
MONAL TOWER
DISPUR
GUWAHATI-06.

4:THE DY. GENERAL MANAGER

POWER GRID CORPORATION OF INDIA LTD.
RONGIA
P.S. RANGIA
DIST. KAMRUP
ASSAM-781354.

5:THE DY. COMMISSIONER

KAMRUP
AMINGAON
DIST. KAMRUP
ASSAM-781031.

6:THE CIRCLE OFFICER

KAMALPUR REVENUE CIRCLE
KAMALPUR
DIST. KAMRUP
ASSAM-781380.

7:THE CIRCLE OFFICER

GORESWAR REVENUE CIRCLE
GORESWAR
BTAD
DIST. BAKSA

ASSAM-781364

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 01.05.2024

Heard Mr. M.I. Hussain, learned counsel for the petitioner.

By filing this application, the petitioners have prayed for a direction to the respondent authorities to provide with adequate compensation of their land which has been acquired for the construction/erection of power line for 400 KV D/C (Quad) at Balipara-Bongaigaon T.I.

2. The petitioners, who claim to be the owner of different plots of land under Kamalpur and Goreswar Revenue Circle in the district of Kamrup, Assam, have contended that the competent authority has acquired the land of the petitioner for Power Grid Corporation of India for construction of power line of 400 KV at Balipara-Bongaigaon. It is contended that for construction of said power line, the paddy crops and other valuable trees have damaged without being paid any compensation to the petitioners.

3. It is stated that some of the petitioners who have given the compensation has been paid with inadequate compensation and some other petitioners have not been paid the compensation at all. On raising the aforesaid grievance by the petitioners, the Deputy Commissioner, Kamrup, Amingaon vide order dated 18.11.2016 has passed the following:-

“Perused the petitions submitted by the affected land owners. Also heard the representatives of Power Grid Corporation of India as well as the Krishak Mukti Sangram Samiti. The affected land owners in their petitions have stated that the Power Grid Corporation of India while installing high voltage power line is not making proper assessment for payment of compensation to the affected land owners. The basic grievances inter alia raised by the affected land owners are as follows:-

- 1. That the Power Grid Corporation of India is not paying them the compensation against the land which become unusable due to erection of high voltage transmission line.*
- 2. The rate of compensation against Zirat as assessed by the Power Grid Corporation of India is less than the market value fixed by concerned department/authority.*

3. On account of cutting of tree and its transportation the Power Grid Corporation of India has deducted up to 30 percent from the amount of compensation.

4. Although as per the guideline issued by the Ministry of Forest and Environment of Government of India the affected land owners are entitled to compensation against the Right of Way belt but the Power Grid Corporation of India is not paying the same.

After perusal of relevant documents and after hearing of all stakeholders it is found that there is no provision for deduction of up to 30 percent value from the affected families as cutting expenses by the Power Grid Corporation of India and hence such deduction in my considered opinion is wholly untenable.

Further prayer of the affected land owners with regard to the payment of surface damage compensation to the affected land owners. On this point also I have heard all stakeholders. The representatives of the Power Grid Corporation of India Limited express the readiness to pay the surface damage to the affected people who have been left out from receiving such compensation and also to pay Zirat value in any discrepancies left in assessment of value of trees/crops etc.

The affected land holders as well as the representatives of Krishak Mukti Sangram Samiti had alleged that the assessment for payment of compensation was not proper and as a result the affected land owners were deprived from getting the adequate amount of compensation. Since the erection of towers and stringing of the conductor, the Pattaders were involuntary restricted on land use and they have lost their substantive right to use the property for the purpose for which the same was meant to be used. It is necessary to ensure adequate receipt of compensation to the affected families.

In my considered view to allay any perception of discrimination to the affected people and re-examination of the assessment of compensation already paid to affected families will have to be done.

In view of the above after hearing all stakeholders and after perusal the materials on record I hereby ordered as follows:

1. The Power Grid Corporation of India Limited is hereby directed to pay the surface damage compensation to the genuine affected people who have been left out from receiving compensation and further also directed to pay Zirat value if any discrepancies left in assessment of value of trees.

2. That the Power Grid Corporation of India Limited is hereby directed to return the amount upto 30 percent deducted from the compensation payable to the affected land owners within a period of 15 days from today.

3. A verification committee hereby constituted under the Chairmanship of Additional Deputy Commissioner, Revenue to re-examine the assessment of compensation already paid to the affected land owners. The committee should also include the circle officers of Hajo, Kamalpur, Rangia and Kaya Revenue Circle. One representative from the Power Grid Corporation of India Limited and the Krishak Mukti Sangram Samiti shall also be member of the committee. Concerned circle officers will assess the land value of project area along with value of the trees and submit the same urgently so that the verification committee can examine the matter and take necessary steps on the issue. The committee will verify the assessment made by the Power Grid Corporation of India Limited and shall submit a report. In case the said committee detect any discrepancy in assessment and payment of compensation it will be obligatory on the part of the Power Grid Corporation of India Limited to pay additional compensation.

Moreover, it is made clear that the zirat value is over and regarding land value compensation to be paid to the affected families, the decision may be taken up by the Revenue & D.M Department, Govt. of Assam.

The Power Grid Corporation of India Limited is hereby directed to submit the list of zirat/surface compensation already paid to the affected families for verification of the committee.

This order will be valid for the claim by the applicants in Kamrup District only.

The committee shall submit a report within a period of one month from the date of issuance of this order. ”

4. By the above order, committee has been constituted and the order indicates that the zirat value is over and regarding land value compensation to be paid to the affected families, the decision would be taken by the Revenue and Disaster Management Department, Govt. of Assam.

5. Thereafter, a meeting was held on 30.12.2016 under the Additional Deputy Commissioner (Revenue) Kamrup, Amingaon wherein, inter alia, it was decided that the concerned Circle Officer to make a survey of the Right of Way (RO) as per the guideline of Ministry of Environment and Forest and list the additional zirat of the affected families (in any) and confirm the ownership of the affected families in coordination with the Power Grid Officials.

6. It is also decided that the concerned Circle Officer will discuss with the department concerned regarding existing rate of the zirat and the land value and submit the same as per the existing guidelines. Thereafter, on receipt of the report, the committee under the Chairman of Additional Deputy Commissioner (Revenue) would decide the final award for the genuine affected families.

7. Thereafter, the petitioners have filed an application before the Circle Officer for necessary action in terms of the decision dated 30.12.2016. According to the petitioners, as on date, nothing has been done which resulted in deprivation of the right of the petitioners for compensation.

8. Ms. U. Das, learned Additional Senior Government Advocate submits that she has no instruction as to whether there was any survey conducted by the respondent authority so as to establish whether the petitioners are entitled for payment either for their land or for the zirat for which she prays for one week time to obtain instruction. However, considering the nature of the prayer, this Court is not inclined to grant time and deem it appropriate to dispose of the matter with a direction to the respondent authorities (infra).

9. On consideration of the materials annexed to the writ petition, it transpires that the authorities has decided to make a survey of the land and zirat of the genuine affected families for compensation and constituted committed headed by the Additional Deputy Commissioner, Revenue, Kamrup.

10. It is also noticed that the meeting was held on 30.12.2016 under the Additional Deputy Commissioner (Revenue), Kamrup, wherein, it is clearly provided that the Circle Officer to make

survey of the Right of Way and to submit report and thereafter the committee under the Chairmanship of Additional Deputy Commissioner (Revenue) Kamrup will decide the final award for genuine affected families.

11. It is seen that in spite of the above decision and the representation by the petitioners, there is nothing to show that any action has been initiated with regard to survey and thereafter any report has been submitted to the committee headed by the Additional Deputy Commissioner.

12. Considering the above facts and circumstances of the case, this Court is of the considered view that the respondent authorities deserve to be directed to make survey and submit the report to the committee headed by the Additional Deputy Commissioner (Revenue) Kamrup, Amingaon.

13. Accordingly, the writ petition stands disposed of with a direction to the Circle Officer, Kamrup, Kamalpur Revenue Circle to make survey of the Right of Way as per the guidelines of Ministry of Environment and Forest and submit the report to the committee under the Chairmanship of Additional Deputy Commissioner (Revenue), Kamrup, Amingaon within a period of two months from the date of receipt of the certified copy of this order. Thereafter, the committee headed by the Additional Deputy Commissioner (Revenue) Kamrup, Amingaon shall decide the matter on the basis of the report that would be submitted by the Circle Officer, Kamalpur Revenue Circle within another period of two months.

14. It is needless to say that if the committee finds that the petitioners are entitled for compensation for their land as well as zirat, same shall be forwarded to the respondents No.1 to 4 i.e. Power Grid Corporation for release of such compensation to the petitioners as per the applicable Rules. Thereafter, the Power Grid Corporation shall release the payment within a period of two months for onward payment to the affected families.

15. With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant