

GAHC010064632024



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

Case No. : I.A.(Civil)/946/2024

THE UNION OF INDIA
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS REP BY SECRETARY
PARLIAMENT STREET NEW DELHI

VERSUS

RAMJI RAY AND 7 ORS
S/O-LATE HARIKISHAN RAY, R/O- DHANTOLA, P.O. JHAROBORI,
BIJAYNAGAR, MOUZA- CHAYANI, DIST. KAMRUP, ASSAM-781122.

2:THE NATIONAL HIGHWAY AUTHORITY
REPRESENTED BY ITS CHAIRMAN HAVING ITS OFFICE AND PRINCIPAL
PLACE OF BUSINESS AT TRANSPORT BHAWAN
PARLIAMENT STREET
NEW DELHI-110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE
GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006.

4:THE COMMISSIONER

REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GHY-781006.

5:THE SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
ASSAM SECRETARIAT
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GHY-781006.

6:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
LAND ACQUISITION BRANCH
REVENUE AND DISASTER MANAGEMENT LR DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GHY-781006.

7:THE DISTRICT COMMISSIONER/COLLECTOR

KAMRUP
AMINGAON.

8:THE ADDL. DISTRICT COMMISSIONER CUM LAND ACQUISITION
OFFICER FOR NATIONAL HIGHWAY-37
KAMRUP
AMINGAON

Advocate for the Petitioner : DEEPAM BORAH

Advocate for the Respondent : DY.S.G.I.

Linked Case : WP(C)/1058/2024

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S/O-LATE HARIKISHAN RAY
R/O- DHANTOLA
P.O. JHAROBORI
BIJAYNAGAR
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DIST. KAMRUP
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SECRETARY HAVING ITS PRINCIPAL OFFICE AT TRANSPORT BHAWAN
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Advocate for : MR. S P ROY
Advocate for : GA
ASSAM appearing for THE UNION OF INDIA AND 7 ORS

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 03-04-2024

03.04.2024

Heard Mr. SP. Roy, learned counsel for the petitioner. Also heard Ms. K. Phukan, learned CGC for the respondent no.1; Mrs. R. Borah, learned standing counsel for the respondent no.2; Ms. S. Sharma, learned Govt. Advocate appearing for the respondent nos.6, 7 and 8 and Ms. N. Bordoloi, learned standing counsel for the respondent nos.3, 4 and 5.

2. The petitioner projects himself to be the lessee of the land measuring 26 bighas covered by Dag nos. 67, 20, 22, 63, 42, 62 and 66 of KP Patta nos.110, 94, 95, 48, 39, 99 and 100 of village-Dhantola, Mouza- Chayani, District-Kamrup, wherein the petitioner had established a brick klin factory in the year 2009. By virtue of a notice dated 13.10.2023 under section 3E of the National Highways Act, 1956, the petitioner was directed to submit documents relating to land covered by Dag no.66, Patta no.110 of village Dhantola, Mouza Chayani. On receipt of the said notice, on 20.12.2023, the petitioner had submitted an objection before the Addl. District Commissioner-cum-Land Acquisition Officer for National Highway-37 (respondent no.8) and brought to the notice of the said authority that the petitioner had interest in land holding of 26 bighas covered by various dag and patta which are referred above.

3. It may be mentioned that one of the grievance of the petitioner is that a part of his land which is covered by Dag no.20 of Patta no.94 is not covered by statutory notification issued under section 3A and 3D of the National

Highways Act. It is submitted that the National Highway construction activity is also going on over the said plot of land which is not covered by the land acquisition notification. Accordingly, the petitioner has also prayed for not taking any coercive action against the petitioner in respect of land covered by Dag no.20 of Patta no.94 as well as other land till objection dated 20.12.2023 is not disposed of.

4. From a copy of the said objection dated 20.12.2023 annexed to the writ petition at Annexure-10, it is noticed that the said objection was received in the office of the Deputy Commissioner on 20.12.2023. The grievance of the petitioner is that he has not been heard on the objection filed on 20.12.2023.

5. The learned State and Departmental counsel, in view of the nature of grievance raised in the writ petition, have expressed that they have no objection to the disposal of the writ petition at the motion stage. However, it is submitted by the learned Govt. advocate that in view of the ensuing Election a reasonable time may be granted to the respondent no.8 for disposing of the objection submitted by the petitioner.

6. The learned standing counsel for the NHAI has submitted that the Union of India has filed an interlocutory application for vacating the order of status-quo which was passed by order dated 12.03.2024 passed in this writ petition. The Court takes note of the said interlocutory application.

7. Accordingly, this writ petition stands disposed of at the motion stage by directing the Addl. District Commissioner-cum-Land Acquisition Officer for National Highway-37 (respondent no.8) that the said authority shall take appropriate steps as may be required for hearing the parties on objection submitted by the petitioner on 20.12.2023 and to make an endeavour to

dispose of the said objection filed by the petitioner within the outer limit of 31.05.2024. While disposing of the said objection, the said authority shall also consider the grievance of the petitioner that the land under Dag no.20 of Patta no.94 was not acquired.

8. The National Highway Authority of India (respondent no.2) is also directed to take note of the stand of the petitioner that land under Dag no.20 of Patta no.94 of village Dhantola, Mouza Chayani, District-Kamrup was not acquired. Therefore, the authorities under the NHAI shall exclude the said part of the land of the petitioner from any coercive steps which is envisaged by the NHAI, unless the said land is covered by notification as envisaged under section 3D of the National Highways Act, 1956.

9. It is clarified that as the learned standing counsel for the NHAI has demonstrated that except for land covered by Dag no.20, all other land of the petitioner is covered by notification issued under section 3D of the National Highways Act, 1956, by operation of law whose lands stands vested in the government and therefore, there shall be no impediment against the NHAI on their National Highway construction. Therefore, except for land covered by Dag no.20 of Patta no.94 of village Dhantola, Mouza Chayani, District-Kamrup in respect of which the order of status-quo passed on 12.03.2024 shall continue till issuance of notification under 3D of the National Highways Act, 1956, the order of status-quo in respect of remaining land covered by Dag nos.67, 22, 63, 42, 62 and 66 of KP Patta nos.110, 95, 48, 39, 99 and 100 of village Dhantola, Mouza Chayani, District-Kamrup shall stand vacated.

10. The petitioner shall produce a certified copy of this order before the respondent nos. 2 and 8 along with his e-mail address and phone number

having Whatsapp and/or Telegram facility so as to enable the said authorities to send him communication/ letter and/or notice of hearing.

11. This writ petition stands disposed of at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant