

GAHC010118062015



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

Case No. : WP(C)/3876/2015

MD. AJBAHAR ALI and 12 ORS.
S/O- MAKKA SEIKH

2: BEGAMA KHATUN
W/O- ABDUL WAHID

3: IBRAHIM ALI
S/O- USTAM ALI

4: JAYAD KHATUN
W/O- UNUS ALI

5: IDU ALI
S/O- MOIDAN ALI

6: JAHURA KHATUN
W/O- IDRIS ALI

7: ZAKIR HUSSAIN
S/O- LT. MUKSED ALI

8: HAYABA ALI
S/O- MOKSHED

9: AKASH ALI
S/O- JOYNAL

10: NASEMA KHATUN
W/O- NAZIR HUSSAIN

11: BULU HAZARIKA
W/O- TULSHI HAZARIKA

12: KAYAM ALI

S/O- ABU AHMED

13: HALIMA KHATUN
W/O- BASIR SEIKH
ALL ARE R/O VILL.- NIZ BAGHMARI
P.O.- BURIGANJ
MOUZA- BAGHMARA
DIST.- SONITPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
REVENUE DEPTT., DISPUR, GHY- 6.

2:THE DY. COMMISSIONER
SONITPUR
DIST.- SONITPUR
ASSAM.

3:THE COLLECTOR AND ADDL. DY. COMMISSIONER
SONITPUR
TEZPUR
DIST.- SONITPUR
ASSAM.

4:THE SUB-DIVISIONAL COMMISSIONER CIVIL
BISWANATH CHARIALI
DIST.- SONITPUR
ASSAM.

5:THE CIRCLE OFFICER
BISWANATH REVENUE CIRCLE
DIST.- SONITPUR
ASSAM.

6:THE DY. GENERAL MANAGER
POWERGRID CORPORATION OF INDIA LTD.
BALIPARA SUB-DIVISION
CHARIDUAR
P.O.- CHARIDUAR
DIST.- SONITPUR
ASSAM

Advocate for the Petitioner : MR.P P BARUAH

Advocate for the Respondent : MR.S K MEDHIR-6

Linked Case : WP(C)/5748/2016

SIMANTA SAIKIA and 4 ORS
S/O. BADAN SAIKIA
R/O. VILL. NIZ BAGHMARI
P.O. BARIGANG
P.S. JINGIA
DIST. SONITPUR
ASSAM
PIN. 784177.

2: SMTI. PURNIMA SAIKIA BORAH
D/O. CHAN BORAH
R/O. VILL. NIZ BAGHMARI
P.O. BARIGANG
P.S. GINJIA
DIST. SONITPUR
ASSAM
PIN. 784177.

3: SRI DIGANTA SAIKIA
S/O. DHIREN SAIKIA
R/O. VILL. NIZ BAGHMARI
P.O. BARIGANG
P.S. GINJIA
DIST. SONITPUR
ASSAM
PIN. 784177.

4.1: ON THE DEATH OF PRANGKAN JYOTI SAIKIA
HIS LEGAL HEIRS SMTI. MONIKA SAIKIA AND ANR.
WIFE OF LATE PRANGKAN JYOTI SAIKIA
RESIDENT OF VILLAGE- NIZ-BAGHMARI
P.O. BARIGANG
P.S. JINGIA
DISTRICT-SONITPUR
ASSAM
PIN-784176

4.2: PRASHIK JYOTI SAIKIA
SON OF LATE PRANGKAN JYOTI SAIKIA
RESIDENT OF VILLAGE- NIZ-BAGHMARI
P.O. BARIGANG

P.S. JINGIA
DISTRICT-SONITPUR
ASSAM
PIN-784176.

NO.4.2. BEING MINOR IS REPRESENTED BY HIS LEGAL GUARDIAN i.e. NO.
4.1. WHO IS HIS MOTHER.

5.1: ON THE DEATH OF JOY KANTA BORA
HIS LEGAL HEIRS SMTI. BHOGILA BORA
WIFE OF LATE JOY KANTA BORA
RESIDENT OF VILLAGE- NIZ BAGHMARI
P.O. BARIGANG
P.S. JINGIA
DISTRICT-SONITPUR
ASSAM
PIN-784176

5.2: SAMIRAN BORA
SON OF LATE JOY KANTA BORA
RESIDENT OF VILLAGE- NIZ-BAGHMARI
P.O. BARIGANG
P.S. JINGIA
DISTRICT-SONITPUR
ASSAM
PIN-784176

5.3: NITUMONI BORA
DAUGHTER OF LATE JOY KANTA BORA
RESIDENT OF VILLAGE- NIZ-BAGHMARI
P.O. BARIGANG
P.S. JINGIA
DISTRICT-SONITPUR
ASSAM
PIN-784176
VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM
REVENUE DEPTT.
DISPUR
GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
SONITPUR
DIST. SONITPUR
ASSAM
PIN. 784177.

3:THE COLLECTOR AND ADDL. DEPUTY COMMISSIONER
SONITPUR
TEZPUR
DIST. SONITPUR
ASSAM
PIN. 784177.

4:THE SUB-DIVISIONAL COMMISSIONER CIVIL
BISWANATH CHARIALI
DIST. SONITPUR
ASSAM
PIN. 784177.

5:THE CIRCLE OFFICER
BISWANATH REVENUE CIRCLE
DIST. SONITPUR
ASSAM
PIN. 784177.

6:THE DEPUTY GENERAL MANAGER
POWER GRID CORPORATION OF INDIA LIMITED
BALIPARA SUB-DIVISION
CHARIDUR
P.O. CHARIDUR
DIST. SONITPUR
ASSAM
PIN. 784177.

Advocate for : MR.S TAI
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE

THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

26.07.2024

1. Heard Mr. R Sarma, learned counsel for the petitioners. Also heard Mr. NC Das, learned Senior counsel, who is virtually present and assisted by Mr. A Das, learned counsel for the respondent No. 6 and Mr. BJ Talukdar, learned Senior counsel representing the respondent Nos. 2,3,4 and 5.
2. The petitioners have approached this court alleging that their land had been acquired by the respondent/ Deputy Commissioner, Sonitpur for

establishment of a power station under Power Grid Corporation of India Limited (respondent No. 6) without paying any compensation or even paying the 'shifting grant' already sanctioned by the authorities.

3. The respondent Power Grid Corporation by filing an affidavit had taken a stand that the said shifting grant including the compensatory portion had already been deposited to the Deputy Commissioner, Sonitpur district i.e. the respondent No.2.

4. The Deputy Commissioner, Sonitpur district has filed an affidavit and had taken a stand that the petitioners were possessing Government land and under such circumstances, they are not entitled for the land compensation. As regards payment of "shifting grants", it is the stand of the Deputy Commissioner that the husband of the petitioner No. 11 had already been granted such shifting compensation and the other writ petitioners are not entitled for such shifting grant for the reason that they are outsiders.

5. In view of the aforesaid stand, this court is of the considered opinion that now the petitioners are left with an efficacious remedy of preferring an appeal/application under Section 16 of the Indian Telegraph Act, 1885 inasmuch such provision prescribes adjudication of dispute as to entitlement to receive any compensation or as to the proportion in which persons interested are entitled to share it. Such dispute is to be decided by the jurisdictional District Judge.

6. That being the position, more particularly, in view of the dispute raised by the Deputy Commissioner, this court cannot issue a writ of mandamus as prayed by the petitioners more particularly the right of the petitioners to get such compensation or grant cannot be determined in the present proceeding for the reason that the entitlement is disputed and now the petitioners are to establish their entitlement by producing evidence.

7. Accordingly, the present proceeding stands closed with a liberty to the petitioners to seek the remedy in terms of the Indian Telegraph Act, 1885.

8. Both the writ petitions stand disposed of.

JUDGE

Comparing Assistant