

GAHC010014882018



2024:GAU-AS:9282

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

Case No. : WP(C)/7457/2018

PURBANCHAL GRIHA NIRMAN UNNAYAN SAMITY
ARUNODAI PATH, SACHAL (NEAR ASSAM SAHITYA SABHA), P.O.
HENGRABARI, GUWAHATI- 781036, KAMRUP, (ASSAM), REPRESENTED BY
ITS PRESIDENT AND SECRETARY.

2: THE PRESIDENT

PURBANCHAL GRIHA NIRMAN UNNAYAN SAMITY
ARUNODAI PATH
SACHAL (NEAR ASSAM SAHITYA SABHA)
P.O. HENGRABARI
GUWAHATI- 781036
KAMRUP (ASSAM).

3: THE SECRETARY

PURBANCHAL GRIHA NIRMAN UNNAYAN SAMITY
ARUNODAI PATH
SACHAL (NEAR ASSAM SAHITYA SABHA)
P.O. HENGRABARI
GUWAHATI- 781036
KAMRUP(M)
(ASSAM)

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY CHIEF SECRETARY GOVERNMENT OF ASSAM, DISPUR,
GUWAHATI- 781006.

2: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE (SETTLEMENT) DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
KAMRUP (METRO)
GUWAHATI-1.

4:THE COMMISSIONER AND SECRETARY
GAUHATI DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-781006

5:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI- 781005
REP. BY ITS CHIEF EXECUTIVE OFFICER.

6:THE CHIEF EXECUTIVE OFFICER

THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI- 781005

Advocate for the Petitioner : MR. R DUBEY, MR. R J DAS,MR. A N I HUSSAIN,MS. A B KAYASTHA,MR. K N CHOUDHURY,MR. R DUBEY

Advocate for the Respondent : GA, ASSAM, SC, GDD,SC, G M D A,SC, REVENUE

Linked Case : WP(C)/6254/2023

USHA DUGAR AND 9 ORS
4 WIFE OF SRI MAHENDRA SINGH DUGAR
RESIDENT OF FLAT NO. 3 B
HOUSE NO. 14
A BYELANE
TARUN NAGAR
GUWAHATI - 781005

2: AMIT KUMAR PATOWARI
SON OF LATE JHAWARLAL PATOWARI
RESIDENT OF 4A
G.K. TOWER
OLD POST OFFICE STREET
REHABARI
GUWAHATI 781008.

3: RAJESH BHURAT
SON OF SRIRIDH KARAN BHURAT

RESIDENT OF C-8
TRIMURTY APARTMENT
4TH FLOOR
SATI JAYMATI ROAD
ATHGAON
GUWAHATI -781001

4: SAROJ BHURAT
DAUGHTER OF SRIBIJOY SINGH RESIDENT OF 4TH FLOOR
TRIMURTY APARTMENT
SATI JAYMATI ROAD
ATHGAON
GUWAHATI -781001

5: VIAY MITTAL
SON OF LATE FULCHAND MITTAL RESIDENT OF ATHGAON
GUWAHATI -781001

6: URMILA BHURAT
DAUGHTER OF SR IKANWAR LAL R/O C 14 TRIMURTY APPATMENT 7 TH
FLOOR S J ROAD ATHGAON GUWAHATI 1

7: PAWAN MITTAL
SON OF LATE FULCHAND MITTAL RESIDENT OF NEW TECH FLOORING
UNIQUE PLAZA
OPP DEWRA BUILDING
NEAR ISUZU CAR SHOWROOM
NH-37
BELTOLA
GUWAHATI.

8: SILOCHANE MITTAL
DAUGHTER OF BANWARILAL MITTAL RESIDENT OF 7TH FLOOR
TRIMURTY APARTMENT
SATI JAYMATI ROAD
ATHGAON
GUWAHATI - 781001

9: LILA JAIN BHURAT
WIFE OF SRI LABHCHAND BHURAT
RESIDENT OF D-8
TRIMURTY APARTMENT
4TH FLOOR
S. J. ROAD
ATHGAON

GUWAHATI - 781001

10: KAMAL CHAND JAIN
SONOFSRIBHAWARMALBHURAT
RESIDENTOF KHUSHBU MOTORS
SHANKAR MARKET
SHANKAR NAGAR
A. T. ROAD
ATHGAON. GUWAHATI 781001
VERSUS

THE STATE OF ASSAM AND 6 ORS
COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM REVENUE
RELIEF AND REHABILITATION AND DISASTER MANAGEMENT DEPTT
DISPUR GUWHATI 6

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
REVENUE (SETTLEMENT) DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE COMMISSIONER SECRETARY
FINANCE DEPARTMENT
GOVERNMENTOFASSAM
DISPUR
GUWAHATI- 781006.

4:THE DISTRICT COMMISSIONER
KAMRUP METROPOLITAN DISTRICT
HENGABARI
GUWAHATI 781036.

5:THE COMMISSIONER AND SECRETARY
GUWAHATI DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI 781006.

6:THE GUWAHATI METROPOLITA DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI- 781005
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER

7:PURBANCHAL GRIHA NIRMAN UNNAYAN SAMITY
ASOCIETYREGISTEREDUNDER THE REGISTRATION OF SOCIETIES ACT
1860HAVINGITSOFFICEATARUNODOI PATH
SACHAL
(NEAR ASSAM SAHITYA SABHA)

HENGRABARI
GUWAHATI 781036.

Advocate for : MR. A BISWAS
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : WP(C)/7355/2023

ISMAILUR RAHMAN AND 16 ORS
S/O LATE HAJI DUDU SHEIKH
R/O SARUMOTORIA
H/NO. 1117
BYE LANE NO. 7/2
GUWAHATI-36
DIST- KAMRUP (M)
ASSAM

2: DIBYAJIT BORA
S/O LATE MAHENDRA NATH BORA
R/O HOUSE NO. 46
RAJGARH ROAD
GUWAHATI-781003
DIST- KAMRUP (M)
ASSAM

3: KAMAL PODDAR
S/O LATE JAGANNATH PODDAR
R/O HOUSE NO. 7
BYE LANE-4
TARUN NAGAR
GUWAHATI-781005
DIST-KAMRUP (M)
ASSAM

4: KHANDAKAR HASAN ALAM
S/O LATE KHANDAKAR SAMSUL ALAM
R/O ZAKIR HUSSAIN PATH
SARUMOTORIA
GUWAHATI-36
DIST- KAMRUP (M)
ASSAM

5: MS. LALITA JAIN
D/O LATE KANHAIYA LAL SURANA
R/O 4TH FLOOR

H/NO. 14
3A BYE LANE
TARUN NAGAR
GUWAHATI-781005
DIST-KAMRUP (M)
ASSAM

6: MANOJ KUMAR PODDAR
S/O LATE JAGANNATH PODDAR
R/O GAAYATRI SADAN
HOUSE NO. 26 A
SUB BYE LANE NO. 5
NALINIBALA DEVI PATH
SHREENAGAR
GUWAHATI-781005
DIST-KAMRUP (M)
ASSAM

7: MRS. RANJITA JAIN KHATER
W/O RITESH KHATER
R/O 2ND FLOOR
H/NO. 14
3A BYE LANE
TARUN NAGAR
GUWAHATI-781005
DIST-KAMRUP (M)
ASSAM

8: MRS. ARJINA SULTANA
C/O DR. S.A. ISLAM
R/O 9TH BYE LANE
HOUSE NO. 990
DR. ZAKIR HUSSAIN ROAD
SARUMOTORIA
HENGRABARI
GUWAHATI-781036
DIST-KAMRUP (M)
ASSAM

9: MRS. LEENA JAIN SURANA
C/O RAJESH KUMAR SURANA
R/O 4TH FLOOR
HOUSE NO. 14
3A BYE LANE
TARUN NAGAR
GUWAHATI-781005
DIST-KAMRUP (M)
ASSAM

10: MRS. AZIZIUN NAHAR
W/O MANIKUR RAHMAN
R/O WARD NO. 2
MANGALDOI
DIST-DARRANG
ASSAM

11: MRS. KAVITA SURANA
D/O LATE JHAWARLAL PATOWARI
R/O 4TH BYE LANE
TARUN NAGAR
BHANGAGARH
GUWAHATI-781005
DIST-KAMRUP (M)
ASSAM

12: JOYDEV CHANDRA DAS
S/O LATE KALIRAM DAS
R/O NO. 2
MATHGARIA
SANTINAGAR PATH
GUWAHATI-781020
DIST-KAMRUP (M)
ASSAM

13: NRIPENDRA KR. SAHARIA
S/O DAYA RAM SAHARIA
R/O VILL-PUNIYA
P.O.-DHEKIPARA
P.S.-SIPAJHAR
DIST-DARRANG
ASSAM

14: UTPAL CHETIA
S/O BENU DHAR CHETIA
R/O 3F
PURBASHA APARTMENT
CHACHAL ROAD
SIX MILE
KHANAPARA
GUWAHATI
KAMRUP (M)
ASSAM-781022

15: BASABT SURANA
S/O LATE KANHAIYA LAL SURANA
R/O HOUSE NO. 42

4TH BYE LANE
TARUN NAGAR
GUWAHATI
P.O.-DISPUR
P.S.-BHANGAGARH
KAMRUP (M)
ASSAM-781005

16: MRS. ANVEEKSHA VERMA
NOMINEE OF ADITYA VERMA
R/O 61
SAPTA SHAHID PATH
DISPUR
GUWAHATI
KAMRUP (M)
ASSAM
-781006

17: JAYANTA DAS
S/O SHREE BHABAKANTA DAS
R/O P.O.-PANIKHAITI
CHANDRAPUR
DIST-KAMRUP
ASSAM
VERSUS

THE STATE OF ASSAM AND 6 ORS
COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE (RELIEF AND REHABILITATION) AND DISASTER MANAGEMENT
DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE (SETTLEMENT) DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE COMMISSIONER SECRETARY
FINANCE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006

4:THE DISTRICT COMMISSIONER
KAMRUP METROPOLITAN DISTRICT
HENGRABARI
GUWAHATI-781036

5:THE COMMISSIONER AND SECRETARY
GUWAHATI DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-781006

6:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI-781005
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER

7:PURBANCHAL GRIHA NIRMAN UNNAYAN SAMITY
A SOCIETY REGISTERED UNDER THE REGISTRATION OF SOCIETIES ACT
1860 HAVING ITS OFFICE AT ARUNODOI PATH
SACHAL
(NEAR ASSAM SAHITYA SABHA)
HENGRABARI
GUWAHATI-781036

Advocate for : MR. A DHAR
Advocate for : SC
REVENUE AND DISASTER MANAGEMENT DEPT appearing for THE STATE OF
ASSAM AND 6 ORS

Linked Case : WP(C)/4395/2022

M/S VERSHA TECHNOTRADE PVT LTD AND ANR
VERSHA HOUSE
HOUSE NO. 44
BYE LANE NO. 4
TARUN NAGAR
DIST. KAMRUP (M)
ASSAM
PIN- 781005.

2: BASANT SURANA
SON OF LATE KANHAIYALAL SURANA
RESIDENT OF SURANA VILLA
HOUSE NO. 42
BYE LANE NO. 4
TARUN NAGAR
DIST. KAMRUP(M)
ASSAM
GUWAHATI- 781005.
VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY CHIEF SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE (SETTLEMENT) DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
GUWAHATI-1.

4:THE COMMISSIONER AND SECRETARY
GAUHATI DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI- PIN- 781006.

5:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI- 781005
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

6:THE CHIEF EXECUTIVE OFFICER

THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI- 781005.

7:PURBACHAL GRIHA NIRMAN UNNAYAN SAMITY
REPRESENTED BY ITS PRESIDENT AND SECRETARY
ARUNODAI PATH
SACHAL
(NEAR ASSAM SAHITYA SABHA)
P.O. HENGRABARI
GUWAHATI
KAMRUP
(ASSAM)
PIN- 781036.

Advocate for : MR. R MAZUMDAR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS

Advocate for the Petitioner(s) : Mr. K. N. Choudhury, Senior Counsel

Mr. R. J. Das

Mr. A. Biswas

Mr. A. Dhar

Ms. T. Wapungla

Advocate for the respondent(s): Ms. M. Barman, District Administration

Date of Hearing : 12.09.2024

Date of Judgment : 12.09.2024

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Heard Mr. K.N Choudhury, the learned Senior Counsel assisted by Mr. R. J. Das, the learned counsel appearing on behalf of the writ petitioner in WP(C) No.7457/2018; Mr. A. Biswas, the learned counsel appearing on behalf of the writ petitioner in WP(C) No. 6254/2023; Mr. A. Dhar, the learned counsel appearing on behalf of the writ petitioner in WP(C) No.7355/2023 as well as Ms. T. Wapungla, the learned counsel appearing on behalf of the writ petitioner in WP(C) No. 4395/2022.

2. On 01.04.1996, the Deputy Secretary to the Government of Assam, Revenue (Settlement) Department vide its letter No. RSS.708/95/20 had granted a settlement of a plot of land measuring 30 (thirty) Bighas covered by Dag No. 602 of Village- Hengrabari under Beltola Mouza in favour of the petitioner in WP(C) No. 7457/2018. The said settlement was granted for building residential houses in organised way subject to payment of 60% of the land value as premium. The Revenue (Settlement) Department of the Government of Assam also directed the Deputy Commissioner, Kamrup, Guwahati-1 to hand over the possession of the land to the petitioner in WP(C) No. 7457/2018. In pursuance to the said letter dated 01.04.1996, the petitioner in WP(C) No. 7457/2018 (herein after for convenience referred to as "the petitioner Samity") had deposited the land premium amounting to Rs. 27 Lakhs by treasury challan dated 03.01.2000 and 07.04.2000.

3. Pursuant to that although there were certain objections raised but the possession of the land was handed over to the President and Secretary of the

Petitioner's Samity on 27.05.2005 and the land was accordingly mutated. On 17.07.2009, a Periodic Patta was issued in favour of Petitioner's Samity being Patta No. 1370 and the concerned Dag No. 602/1074 (old) and 3785 (new). It is pertinent to mention that the patta specifically mentioned 401.40 acrs of land which corresponds to 30 Bighas of land. Pursuant thereto, the Petitioner Samity had executed an agreement with the petitioner in WP(C) No. 4395/2022 for construction of the Multi-storied RCC Building.

4. In the year 2008, the Guwahati Water Bodies (Preservation & Conservation) Act, 2008 (herein after referred to as "the Act of 2008") was enacted and Vide Gazette Notification dated 07.08.2008, the said Act was brought into force. In the said Act of 2008, the land of the Petitioner Samity which was settled long back in the year 1996 and in respect of which the Periodic Patta was issued, was included in Schedule-III of the said Act of 2008. This inclusion of the land belonging to the Petitioner Samity within the scope of the Act of 2008 is the subject matter of challenge in WP(C) No. 7457/2018.

5. The petitioners in WP(C) No. 7355/2023 and WP(C) No.6254/2023 also claimed rights over the said land settled with the Petitioner Samity on the basis of certain documents executed by members of the Petitioner Samity. However, those documents admittedly are not Deeds of Conveyance or Deeds of Sale.

6. The petitioner in 4395/2022 had filed the writ petition challenging the inclusion of the land which was settled with the Petitioner Samity within the ambit of Act of 2008 as well as also seeking direction upon the GMC Authorities to grant permission to the said petitioner to construct houses as per the Approved plan.

7. While these writ petitions have been pending, the Government took a decision to acquire the land belonging to the Petitioner Samity and accordingly a proceeding was initiated under the Assam Land (Requisition and Acquisition Act, 1964) (for short "the Act of 1964"). The said land acquisition case was registered as numbered as LA Case No. 35/2023. It is seen that on 22.12.2023, the notification under Section 6(1) of the Act of 1964 was issued which was published in the Assam Gazette on 28.12.2023.

8. At this Stage, this Court duly takes note of Section 6(2) of the Act of 1964. It would be seen from the said provision that upon issuance of the said notice and the same being published in the Official Gazette, the land vests absolutely in the State Government free from all encumbrances. Under such circumstances, w.e.f 28.12.2023, the land belonging to the Petitioner Samity vested upon the State Government. Under such circumstances, the reliefs sought for in WP(C) No. 6254/2023 WP(C) No. 7355/2023 and WP(C) No. 4395/2022 have become infructuous.

9. Be that as it may, taking into account that during the pendency of the writ petition these developments have taken place, the various orders passed in the instant proceedings which would show that this Court has time to time enquired with the respondent authorities as to what was the status of the acquisition proceedings.

10. Today, Ms. M. Barman, the learned counsel appearing on behalf of the District Administration of Kamrup Metropolitan District has submitted before this Court that the award in Land Acquisition Case No. 35/2023 has already been passed 05.09.2024. A copy of the said award in Form -X has been placed before this Court. It has also been informed the said award has been duly filed in terms with the Act of 1964 read along with the Land Acquisition Act of 1894. Under such circumstances, the said award had attained finality and becomes a conclusive evidence between the District Administration i.e. the Collector and the persons interested.

11. It is further seen from the said documents placed that the total amount to which the Petitioner Samity has shown to be entitled to has been calculated on the basis of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-settlement Act, 2013 (for short "the Act of 2013") and more particularly Sections 26 to 30 of the said Act of 2013. The total amount payable to the Petitioner Samity has been quantified at Rs.153,04,12,672/-(Rupees One hundred and fifty three crores, four lakhs, twelve thousand and six hundred and seventy two only). The said document along with the Award which has been placed before this Court are collectively kept on record and marked with the letter "X".

12. This Court duly enquired with the learned counsel appearing on behalf of the District Administration as to whether the amount has been deposited to the

District Commissioner for onward disbursal. The learned counsel submitted that the request has been made to the Requiring Department i.e the Department of Housing and Urban Affairs and the same would likely to be done so at the earliest.

13. Taking into account that the award has already been passed and the land now vest upon the State, the Petitioner Samity herein would be entitled to the said amount.

14. Be that as it may, it is also seen from a perusal of Section 12 1(b) of the Act of 1964 that any persons aggrieved as regards to the apportionment of the compensation can very well approach the Collector by seeking a reference to the Court. It is also seen that when such an application is filed before the Collector, the Collector has to refer it to the Court and the instant case it would be the Court of District Judge Kamrup (M). It is also seen in terms with Sub-Section (2) of Section 12 of the Act of 1964 that by way of legislation by incorporation, the provisions of the Land Acquisition Act 1894, have been incorporated. Under such circumstances, if an application is being filed expressing disagreement in respect to the apportionment of the amount then in such case the Collector that would be the District Commissioner, Kamrup (M) has to act in terms with Section 30 read with Section 31 (2) of the Land Acquisition Act, 1894. However, the same is only to be applied subject to a dispute being raised by filing an application as per the mandate of Section 12 (1)(b) of the Act of 1964.

15. Mr. A Biswas, and Mr. A Dhar, the learned counsels appearing on behalf of the petitioners in WP(C) No. 7355/2023 and WP(C) No. 6254/2023 submits that they would forthwith with take appropriate steps in that regard. Fifteen days time is given for filing the appropriate application before the Collector, if so advised.

16. Accordingly, this Court disposes of the batch of instant writ petitions thereby granting liberty to the parties herein to further proceed in accordance with the provisions of law.

17. Before parting with the records this Court finds it relevant to observe that the delay in disbursing the amount by the Requiring Authority would only lead

to enhancement of the compensation amount in terms with the provisions of the Act of 2013 on account of interest. This Court cannot be unmindful of the fact that the amount to be disbursed would have to be defrayed from the public exchequer and as such this Court observes that the concerned respondent authorities and more particularly the Requiring Department shall take appropriate steps keeping in mind that delay in depositing the amount to the Acquiring Authority that is the District Commissioner, Kamrup as well as the District Commissioner delaying in disbursement of the amount or placing it before the Court as the case may be, would entail huge expenditure on account of interest.

18. Interim orders, passed earlier, stands vacated.

19. The parties herein are given the liberty to apply before the Registry of this Court for certified copy of the document marked with the letter "X".

JUDGE

Comparing Assistant