

GAHC010016022018



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

Case No. : WP(C) 453/2018

1:ELA GOGOI
R/O VILLAGE POHUMORA, PO- POHUMORA, PS- NORTH LAKHIMPUR

VERSUS

1:THE STATE OF ASSAM
THROUGH THE SECRETARY, TO THE GOVERNMENT OF ASSAM, REVENUE
DEPARTMENT, DISPUR, GUWAHATI

2:THE DEPUTY COMMISSIONER (LAND ACQUISITION BRANCH)
LAKHIMPUR
NORTH LAKHIMPUR

3:THE CIRCLE OFFICER
NOWBOISA REVENUE CIRCLE
NOWBOISA
PO- NOWBOIS

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

31.01.2018

Heard Mr. S. C. Biswas, learned counsel for the writ petitioner. I have also heard Ms. M. Bhattacharjee, learned Addl. Senior Govt. Advocate, Assam appearing for the respondents.

The writ petitioner herein claims to be the owner of private patta land and the building standing thereupon situated in the district of Lakhimpur as described in the writ petition. For the purpose of construction of National Highway No.52 the authorities are in requirement of land and therefore, there was a move initiated for acquiring the petitioner's land in connection with L.A. Case No.125/2010. However, according to Mr. Biswas, till today no up-to-date assessment for payment of compensation in respect of the land to the petitioner has been made by the authorities. Notwithstanding the same, the respondents are contemplating to forcibly take over possession of the petitioner's land and building by demolishing the existing structures by using bulldozers thereby causing serious prejudice to the rights and interest of the petitioner.

Claiming that the petitioner is still in possession of the land and building, Mr. Biswas submits that the petitioner is entitled to a reasonable notice before the authorities take over possession of the land and such action must also be in accordance with the provisions of the Assam Land (Requisition and Acquisition) Act, 1948 read with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013. The learned counsel for the petitioner submits that if the possession of the land is taken over in violation of the statutory provisions then the petitioner will be deprived of her property in violation of her rights guaranteed under Article 300A of the Constitution of India. Under the circumstances, a prayer has been made for a protection of the interest of the petitioner in the matter.

Ms. M. Bhattacharjee, learned Addl. Senior Govt. Advocate, Assam, submits that if the land of the petitioner is acquired by the authorities, due compensation will be paid to her after making proper assessment and the respondents will not take over possession of the land without following the due procedure of law.

In view of the apprehension expressed in the writ petition and considering the submission made by the learned Additional Senior Government Advocate I am of the view that the writ petition can be disposed of at the motion stage. As such, on the basis of agreement reached by the learned counsel for the parties, I dispose of the writ petition by directing that the respondents may expedite the process of making up-to-date assessment of the land and building proposed to be acquired by them. While taking over possession of the land under occupation of the petitioner, the respondents would strictly adhere to the provisions of law and issue prior intimation to the petitioner before any action is taken in the matter.

The learned Government Advocate to communicate the order to the concerned authorities.

The writ petition stands disposed of.

JUDGE

Comparing Assistant