

GAHC010226812021



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

Case No. : WP(C)/7303/2021

BIPUL CHANDRA SAIKIA
S/O. LT. MITHARAM SAIKIA, R/O. LANGHIN TINALAI, P.S. DOKMOKA, P.O.
LANGHIN TINALAI, VIA DOKMOKA, DIST. KARBI ANGLONG, ASSAM, PIN-
782441.

VERSUS

THE UNION OF INDIA AND 9 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS TRANSPORT BHAWAN, 1, PARLIAMENT
STREET, NEW DELHI-110001.

2:THE STATE OF ASSAM

REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006.

3:KARBI ANGLONG AUTONOMOUS COUNCIL

REP. BY ITS PRINCIPAL SECRETARY
DIPHU
KARBI ANGLONG
ASSAM-782460.

4:THE PRINCIPAL SECRETARY

KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG

ASSAM
PIN-782460.

5:THE COMPETENT AUTHORITY FOR LAND ACQUISITION

JOINT SECRETARY (REVENUE)
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

6:THE DEPUTY COMMISSIONER

KARBI ANGLONG DISTRICT
DIPHU
DIST. KARBI ANGLONG
ASSAM
PIN-782460.

7:THE ASSTT. SETTLEMENT OFFICER

PHULONI REVENUE CIRCLE
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

8:THE ASSTT. REVENUE OFFICER

PHULONI REVENUE CIRCLE
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

9:NATIONAL HIGHWAYS AUTHORITY OF INDIA

REP. BY ITS CHAIRMAN
G 5 AND 6
SECTOR 10
DWARKA
NEW DELHI-110075.

10:THE PROJECT MANAGER

PROJECT MONITORING UNIT- DIPHU
NATIONAL HIGHWAY AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD.
PWD (IB)
PWD COLONY
LUMDING ROAD
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460

Advocate for the Petitioner : MR. A J SARMA

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

O R D E R

29.12.2021

Heard Mr. P.D. Nair, learned counsel for the petitioner. Also heard Mr. R.K. Talukdar, learned Standing Counsel, NHIDCL representing for the respondent Nos. 1 and 10 and Mr. J. Handique, learned Standing Counsel appearing for the Revenue Department representing for the respondent No. 2. None appears on call for the Karbi Anglong Autonomous Council representing for the respondent Nos. 3 to 8. On behalf of Mr. C. Baruah, learned Standing Counsel for the respondent No. 9, the learned counsel Mr. R.K. Talukdar accepts notice.

2. By filing this application under Article 226 of the Constitution of India, the grievance of the petitioner is that his land and house has been acquired under Section 3A of the National Highways Act, 1956 by issuing appropriate notification. While the learned counsel for the petitioner submits that the

petitioner is not challenging the acquisition, but he is aggrieved by assessment of the value of his house at Rs. 6,38,360/-. It is submitted that the petitioner has received the land acquisition of his land. Accordingly, the petitioner is seeking a direction to the respondent authorities for proper valuation of the petitioner house and appurtenant thereto.

3. At this stage, learned counsel for the respondent Nos. 1 and 10 submits that the petitioner is aggrieved by the quantum of assessment of the value of his house, and therefore, as per sub-section 5 of Section 3 G of the National Highways Act, 1956 the petitioner has an alternative remedy of having the amount of compensation determined by the arbitrator. It is submitted that as per the notification issued by the Central Govt. on 31.12.2001, the Divisional Commissioner, Hills and Barak Valley Division, Dispur has been appointed as arbitrator.

4. Having regard to the provision of Section 3 G (5) of the National Highways Act, 1956 as alternative remedy of having the compensation determined has been provided for the Court is not inclined to determine the disputed question raised in this present writ petition. Accordingly, the petitioner is relegated to avail remedy provided for under Section 3G (5) National Highways Act, 1956.

5. However, as an interim measure, it is provided that till the next 15 (fifteen) days from the date of this order, the Competent Authority for Land Acquisition, Joint Secretary (Revenue), Karbi Anglong Autonomous Council, Diphu Karbi Anglong (respondent no.5) shall not demolish the house of the petitioner, which is mentioned at serial no. 280 of the notification dated 13.11.2020 issued by the Ministry of Road Transport and Highways, Government of India (S.O. 4097(E). published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (ii) dated 13.11.2020 (Annexure-4).

6. The petitioner shall produce a certified copy of this order before the respondent no. 5 to bring the order to his notice. Moreover, in addition, the learned counsel for the petitioner shall also provide a copy of this order to the learned Standing Counsel for the Karbi Anglong Autonomous Council for transmission of the order to the respondent no. 5 through his end.
7. The learned counsel for the respondent Nos. 1 and 10 is at liberty to download the copy of this order from the Court website for onward transmission to the said authorities.
8. Accordingly, this petition stands disposed of at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant