

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

ITANAGAR PERMANENT BENCH

Review.Pet. No 4 (AP) 2015

Kojum Techhi

...Petitioner

-Versus-

Union of India & Others

... Respondents

B E F O R E
HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Advocates for the Petitioner : Mr. A. Kashyap

Advocates for the Respondents : Mr. N. Ratan
For respondent No. 1
Ms. G. Ete
Addl. Sr. Govt. Advocate
For respondent Nos. 2 to 5
Mr. G. Kamduk
For respondent No. 6

Date of hearing & Judgment : **19.06.2018**

JUDGMENT & ORDER (ORAL)

Heard Mr. A. Kashyap, learned counsel for the petitioner. Also heard Mr. N. Ratan, learned counsel for the respondent No. 1 and Ms. G. Ete, learned Additional Senior Government Advocate for the state respondent Nos. 2 to 5 as well as Mr. G. Kamduk, learned counsel appearing for the respondent No. 6.

2. The petitioner is the owner of certain land from chainage No. 4000 M to 5500 M and chainage No. 5800 M to 5900. The said land of the petitioner was acquired by the respondent authorities for the purpose of construction of the Trans Arunachal Highway in the year 2013 and an amount of Rs.12,60,000/- was paid being the payable compensation for the land that was acquired. Being aggrieved by the amount of the compensation, a writ petition was preferred by the petitioner which was registered as WP(C) No. 62 (AP) of 2014. The said writ petition was given a final consideration by the order dated 05.05.2015.

3. In the said writ petition an issue had arisen as to whether the compensation to be paid to the petitioner would be under Section 10 of the Balipara/Tirap/Sadiya/Frontier Truck Jhum land Regulation, 1947 (in short 1947 Act) Act or the same would be covered by two notifications of the Government of Arunachal Pradesh dated 18.12.2011 and 28.12.2012.

4. The implication of the acquisition being covered by the Act of 1947 is that under the said Act no compensation is payable for the value of the land

which was acquired. This Court by the order dated 05.05.2015 took the view that the compensation payable to the petitioner would be covered by the aforesaid two notifications and not by the Act of 1947 and therefore the petitioner is also entitled for a compensation for the value of the land.

5. Accordingly, the following direction was issued in as under:

"Accordingly, this writ petition is allowed with the direction that the State Respondent shall assess the value of the land, acquired from the petitioner for the Trans-Highway and pay necessary compensation to the petitioner in terms of the Notification, dated 28.12.2012, after ascertaining the ownership of the land."

6. This review petition has been preferred by the writ petitioner on the premises that the land which was acquired from the petitioner also contains certain appurtenants standing thereon and therefore it is the apprehension of the petitioner that while complying with the directions in the Judgment and Order dated 05.05.2015, the authorities may not take into consideration the value of the appurtenants standing on the land.

7. The law of compensation clearly provides that the term *value of the land* also includes the value of the appurtenants standing on the land and not confined to the actual value of the land that stands acquired.

8. In view of the above, this review petition is allowed to that extent by clarifying that the direction of this Court contained in the Judgment and Order dated 05.05.2015 requiring the respondent authorities to assess the value of

the land of the petitioner be construed to be the value of the actual land acquired and also the value of the appurtenants standing thereon.

9. It is however, also clarified that it is not a direction of this Court to pay compensation to the petitioner as claimed by him but on the other hand the state respondent authorities are required to pass a reasoned order thereon as to what is the entitlement of the petitioner in the facts and circumstances of the case.

10. The aforesaid exercise, be carried out within a period of six months time from the date of receipt of the certified copy of this order. Prayer is allowed.

In terms of the above, this review petition stands disposed of.

JUDGE

VINAY