

(1993) 06 GAU CK 0002
In the Gauhati High Court
Case No : Civil Rule No. 1374 of 1978

Chittaranjan Deb and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 22-06-1993

Acts Referred:

Assam Land (Requisition and Acquisition) (Amendment) Act, 1964 — Section 11(4), 3, 8(1)
Constitution of India, 1950 — Article 226

Citation : (1994) 1 GLR 249

Hon'ble Judges : J.N. Sharma, J

Bench : Single Bench

Advocate : R.P. Sarma, for the Appellant; Non appeared, for the Respondent

Final Decision : Allowed

Judgement

J.N. Sarma, J.—This application under Article 226 of the Constitution has been filed for enforcement of the order dated 20-6-1986 passed by the Deputy Commissioner, Cachar which is Annexure-C to the writ application.

Annexure-C reads as follows:

Since Superintendent of Police Cachar is agreeable to spare 2B-13K-13 Chatak of land as mentioned above for public Health Engineering Deptt. so under provision of Section 8(1) of Assam Land (Requisition and Acquisition) Act, 1964, I Sri H.M. Cairae, IAS, Deputy Commissioner and Collector, Cachar, do hereby derequisition the land measuring 2B-13K-13Ch, in Patta No. 14, 47, 285 Dag No. 76/Kha, 57/Kha, and 58/Kha in village Rongpur part IV Pargana Barakpar, District Cachar which was included in the requisition order No. SOL.4/70-71/9 dtd. 17-3-71 with effect from 30-6-86 (the date of handing over possession) of this land back to the Collector, by Superintendent of Police, Cachar.

2. By this order, the Collector directed inter alia as follows:

1. The Superintendent of Police, Cachar was requested to hand over possession

of the derequisition land to the Collector, Cachar on 30-6-86 positively.

2. The Superintendent of Government Press was directed to publish the derequisition notice in the Assam Gazette.

3. The owners of the land for information that possession of the land will be given back to them on 30.0.86.

4. Sri A.K. Deb, S.K. was directed to contact the office of the Superintendent of Police, Cachar to take over possession of the land from the Superintendent of Police, Cachar and hand over possession of the land to the land owners on the date fixed and to submit possession certificate of 4 copies duly signed by the respective parties.

On the Strength of this order, possession was not handed over to the land owners/Subsequent thereto by Annexure-D the land owners on 30.5.87 made 8 request to hand over possession of the land to them.

Thereafter another representation was filed on 10.7.87. But nothing was done. Hence, this writ application.

3. I have heard Mr. R.P. Sarmah, learned Counsel for the Petitioners. Nobody appeared for the Respondent.

4. Section 8(1) of the Assam Land (Requisition and Acquisition) Act, 1964 reads as follows:

8(1) Release from requisition - Where any land requisitioned u/s 3 is not acquired and is to be released from requisition, it will revert to the owner and the Collector will deliver possession of the land to such owner or person interested who was recognised under Sub-section (4) of Section 11 in as good a condition as the land was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force.

Section 8(1) is mandatory and the Collector is duty bound to deliver possession of the land to the owner of the land and the section further states that the Collector is duly bound to deliver the land to the owner in a good condition as the land was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and and irresistible force. In the instant case, what is found on the record is nothing, but a sorry state of affairs. The land in question was requisitioned by the Collector on 14-3-71 u/s 3 of the aforesaid Act. The possession was delivered on 22-3-71. No construction of building was made by the Police Department and the land remained vacant. Not a single paise was paid as compensation till date as required u/s 11(4) of the aforesaid Act. Thereafter the land was derequisitioned as stated earlier on 20.6.86, but the possession was not handed over and in the meantime, the Public Health Engineering Department, a department of the Government of Assam through its Executive Engineer, Respondent No. 3 encroached the land and put of a sign board therein. But the land is still vacant. In that view of the matter, I direct the

Respondent No. 2, the Deputy Commissioner and Collector of Cachar, Silchar as follows:

(1) The Collector will deliver the possession of the land to the owner by removing all the encroachments. This delivery of possession will be made within 2 months from the date of receipt of this order.

(2) The Collector will pay the necessary compensation due to the Petitioners from 14-3-71 to 20-6-86 from the date of requisition and derequisition as provided u/s 11(4) of the Act. This payment also will be made within 2 months from the date of receipt of this order.

(3) The Collector also will pay the interest at the rate of 9% on the amount of compensation as may be determined by him u/s 11(4) of the Act.

(4) The payment of compensation as well as the interest must be made to the Petitioners within a period of 2(two) months from the date of receipt of this order.

The Petitioners have also claimed some other compensation, but in the facts and circumstances of the case, I am not inclined to grant the same.

5. With the above directions, the writ petition is allowed and the Rule issued earlier is made absolute. Send a copy of this order to the Respondent No. 2 i.e. the Deputy Commissioner and Collector, Cachar so that he may do the needful in pursuance of the order. I make no order as to costs.