
(2022) 01 GAU CK 0027

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3472 Of 2020

Faizul Haque Barbhuiya

APPELLANT

Vs

Union Of India And 6 Ors.

RESPONDENT

Date of Decision : 10-01-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 01 GAU CK 0027

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : M J Quadir

Final Decision : Disposed Of

Judgement

1. Heard Mr. M. J. Quadir, learned counsel appearing on behalf of the petitioner. I have also heard Mr. K. K. Parashar, learned counsel appearing on

behalf of the respondent no. 1, Mrs. S. Sarma, learned counsel appearing on behalf of the respondent nos. 2, 3, 4, 5 & 7 and Ms. M. Barman, learned

counsel appearing on behalf of the respondent no. 6.

2. This is an application under Article 226 of the Constitution whereby the petitioner being aggrieved for non-payment of the admitted assessed

compensation of Rs. 5,88,773/- have approached this Court.

3. The brief facts of the instant case is that the petitioner owns various new plot of land including a plot of land which had a residential Assam type

RCC building bearing holding No. 241, situated at village Rajeshwarpur, P.O. Lala in the District of Hailakandi. As the petitioner's house stands

on the left side of National Highway 154, in the year 2007 the high way was surveyed for extending its width to 25 meters from the existing 20 meters

and resultantly, a shop house appertaining to petitioner's residential building and some trees etc had fallen within the surveyed area of extended 5 meters.

4. The officials of Deputy Commissioner, Hailakandi initially calculated the compensation of the petitioner at Rs. 1,14,577/-. The petitioner aggrieved by the determination of the compensation filed a representation before the Deputy Commissioner, Hailakandi. However, the Deputy Commissioner Hailakandi did not take any step for which the petitioner approached this Court under Article 226 of the Constitution which is registered and number as WP (C) No. 751/2010.

5. This Court vide an order dated 04.12.2014 instead of adjudicating the dispute on merits and taking into consideration that the claim made by the petitioner may require consideration of evidence closed the said writ petition with the liberty to the petitioner to approach the competent authority under the National Highway Act, 1956, so that he could adduce necessary evidence for consideration before the said authority. It may be relevant to mention that in paragraph no. 3 of the said order date 04.12.2014, it was observed that the petitioner had admitted that an amount of Rs. 1,14,577/- was already paid as compensation.

6. In view of a factual error being recorded in the order dated 04.12.2014 to the effect that the petitioner had admitted of receiving an amount of Rs. 1,14,557/- was paid to the petitioner as compensation, the petitioner approached this Court again by way of review petition which was registered and numbers as Review Petition no. 19/2015.

7. This Court vide an order dated 23.2.2015 corrected the factual error with an observation that "it is now to be noted that although Rs. 1,14,577/- was tendered to the petitioner, he refused to accept the same." After noting the said, this Court closed the Review Petition with the direction that in the event the higher compensation claimed by the petitioner is allowed by the competent authority the tendered amount (not received) should be adjusted with the eventual amount.

8. The petitioner thereafter, filed their representation before the respondent no. 6 for re-determination of the compensation. Pursuant thereto, the

Assistant Executive Engineer, PWD Hailakandi Building Division re-assessed the valuation at Rs. 6,21,985/-. Subsequent thereto the Executive

Engineer, PWD submitted the assessment of the valuation of the building on 07.07.2018 by communication to the Deputy Commissioner, Hailakandi

showing that the petitioner is entitled to Rs. 5,88,773/-.

9. The Deputy Commissioner Hailakandi /competent authority accepted the said amount of Rs. 5,88,773/- as the value to which the petitioner is

entitled to as the compensation and accordingly, by the communication dated 06.08.2018 submitted the revised LA estimate for the amount of Rs.

5,88,773/- and for consequential payment of compensation to the petitioner at an early date to avoid contempt proceedings.

10. Subsequent thereto, the authorities from time and again have been writing about the petitioner's entitlement of the said amount of Rs.

5,88,773/- but however, the said amount has not been released to the petitioner for which the petitioner has approached this Court under Article 226 of

the Constitution of India.

11. This Court vide an order dated 17.09.2020 had issued notice and while issuing the notice it was specifically mentioned that the respondent PWD to

file an affidavit-in-opposition indicating as to why the assessed amount of land compensation has not been paid to the petitioner. Till date no affidavit-

in-opposition has been filed.

12. The right of the petitioner to the said compensation of Rs. 5,88,773/- cannot be delayed or nullified by the respondent authorities in as much as

admittedly the respondent authorities have already taken over the possession land and houses belonging to the petitioner in the year 2009 and in that

regard the respondent authorities have themselves assessed the said amount of Rs. 5,88,773/- as a reasonable and fair compensation to the petitioner.

The respondent no. 6 who is the Deputy Commissioner, Hailakandi as well as the competent authority have also endorsed to the fact the amount of

Rs. 5,88,773/- is the amount to which the petitioner is entitled to.

13. It is seen from the records that the petitioner has been dispossessed from his house in the land in the year 2009 and we are in the year 2022 and till

date the petitioner has not paid his legitimate dues. Consequently, it is the opinion of this Court that the amount admitted to be the legitimate

compensation to the petitioner i.e. the amount Rs. 5,88,773/- is required to be paid or such other amounts which the petitioner is entitled to is required

to be paid to the petitioner by the respondent authorities.

14. Accordingly, this Court therefore, directs the respondent authorities to verify the entitlement of the petitioner of the amount Rs. 5,88,773/- within a period of two months from today and thereupon upon verification if it is found that the petitioner is entitled to Rs. 5,88,773/- or such other amounts, the said amount shall be paid within a period of two months from the date which the certified copy of this order is served upon the respondent no. 6.

15. With the above observations the instant petition stands disposed.