

(2003) 01 GAU CK 0005
In the Gauhati High Court
Case No : Civil Rule No. 5568 of 1997

Maya Ghosh and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 16-01-2003

Acts Referred:

Assam Land (Requisition and Acquisition) (Amendment) Act, 1964 — Section 11

Citation : (2003) 1 GLR 451 : (2005) GLT 415 Supp

Hon'ble Judges : Ranjan Gogoi, J

Bench : Single Bench

Advocate : N. Dhar, P.B. Mazumdar and B. Sinha, for the Appellant; G. Singh, CGSC and B. Choudhury, GA, for the Respondent

Judgement

Ranjan Gogoi, J.—Heard Mr. N. Dhar, learned counsel for the petitioners, Mr. B. Choudhury, learned Govt. Advocate, Assam and Mrs. G. Singh, learned Central Govt. Standing Counsel.

2. An area of land measuring 3 1/2 Justies covered by permanently settled estate (Taluk) No. 14884/195 Khoas Baux and permanently settled estate (Taluk) No. 14885/196 Nasir Hanif along with lands were requisitioned something in the year 1964 for use by the B.S.F. authorities. The total area of land so requisitioned appears to be approximately 22 bighas belonging to the different land owners of which the petitioners are the owners of land to the extent of 3 1/2 Justies as described above. Though possession of the land was handed over to the B.S.F. authority something in the year 1965 and such possession had continued unabated till date, the petitioner who had not been paid any compensation or rent in respect of her land, has instituted the present proceedings praying for appropriate orders from this Court for payment of compensation for requisition and use of the land by the respondent authorities and in the alternative for release of the land from the possession of the respondent authorities.

3. Though the case had remained pending in the file nearly for five years, no

affidavit has been brought on record by the respondent authorities. Consequently, this Court by order dated 19.12.2002 directed the respondent authorities of the Central Govt. Standing Counsel to file an affidavit indicating the following:

"(i) Whether the land of the petitioner, as described in the writ application, was acquired by the B.S.F. authorities and if so, under what provisions of law ? The affidavit will be accompanied by a copy of acquisition notice.

(ii) Whether any compensation, either on account of requisition or on account of acquisition, as the case may be, has been deposited by the B.S.F. authorities and if so, with whom ? The particulars of such deposits shall also be mentioned in the affidavit filed.

The Deputy Commissioner, Karimganj as the Collector, shall also file an affidavit indicating as to whether he had received any amount either by way of requisition compensation or acquisition costs in respect of the land of the writ petitioner and if so, whether the said amount or any part thereof, has been disbursed to the writ petitioner. If the amount has been so disbursed, the particulars of persons who have received the payment shall also be furnished. If the amount has not been disbursed to any person and is lying with deposits of the Collector, the affidavit shall indicate as to whether the said amount is lying in the Bank and is earning interest."

4. Pursuant to the aforesaid order of this Court dated 19.12.2002, the affidavits filed by the aforesaid respondents would go to indicate that insofar as the authorities of the B.S.F. are concerned, their stand is that out of total area of 22 bighas initially requisitioned and proposed to be acquired, an area of about 19 bighas had to be released under different orders passed by this Court in separate proceedings. The remaining area, i.e., 3 bighas, according to the B.S.F. authorities, has become too small for the purpose for which requisition and acquisition was initially proposed. The B.S.F. authorities, therefore, had taken stand in the affidavit filed that the should be allowed to surrender the land on payment of such cost/compensation/rent, as may be due to writ petitioner.

5. The affidavit filed by the learned collector pursuant to the order dated 19.12.2002 passed by this Court also would go to show that though the area of land in question was requisitioned as far back as in the year 1963-64, the same has not been acquired though acquisition proceedings had been initiated at different points of time. From the affidavit of the learned Collector, this Court reasonably assumes that the land continues to be under requisition even today, i.e., even after expiry of four decades and that the land has not been formally acquired by invoking the provisions of the Assam Land (Requisition and Acquisition) Act, 1964. Long possession of the land by keeping the same under requisition without acquiring the same in contrary to the provisions of the said Act. However, without dilating the aforesaid aspect of matter any further in view of the near unanimity in the stand taken by the contesting parties, this writ

petition shall stand closed with the following directions :

(i) The authorities of the B.S.F. shall within a period of 3 (three) months from today, hand over the vacant possession of the land in question to the writ petitioner.

(ii) The Land Acquisition Collector shall within the aforesaid period of three months determine the rent/compensation payable to the writ petitioner in respect of possession of the land by the B.S.F. authorities since the year 1965, as claimed by the writ petitioner. Such determination of compensation will be made by following the provisions of the Assam Land (Requisition and Acquisition) Act, 1965 particularly.

Section 11 of the Act. Learned Collector shall also allow interest as may be due to the writ petitioner on the unpaid amount of compensation/rent at such rate and from such date, as permissible in law.

(iii) On such determination of compensation/rent along with interest made by the learned Collector within 3 (three) months, the B.S.F. authorities will deposit the amount in question within a further time of one month.

6. The writ petition stands closed in terms of the above three directions.