

(1958) 02 GAU CK 0009
In the Gauhati High Court
Case No : Civil Rule No. 166 of 1955

Nahorkutia Tea Estate

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 12-02-1958

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 5A, 5A(1), 5A(2), 6

Citation : AIR 1958 Guw 66

Hon'ble Judges : Haliram Deka, J;G. Mehrotra, J

Bench : Division Bench

Advocate : S.K. Ghose, T.N. Phukan and J.P. Bhattacharjee, for the Appellant;
D.N. Medhi, Sr. Govt. Advocate, for the Respondent

Judgement

G. Mehrotra, J.—This is an application under Article 226 of the Constitution for a direction that the proceedings u/s 5-A of the Land Acquisition Act be quashed and that the notifications issued under Sections 4 and 6 of the Land Acquisition Act be also quashed. Briefly the facts are that the Petitioner company is the proprietor of the Nahorkutia Tea Estate in the district of Lakhimpur. Proceedings under the Land Acquisition Act have been taken in respect of a part of the land belonging to the company. The notification u/s 4 of the Land Acquisition Act was issued by the State Government declaring that the land was needed for public purpose for the construction of the P.W.D. office and quarters. Thereafter objections were invited and u/s 5-A of the Act objections were filed by the Petitioner challenging the acquisition of the land.

It appears that the Petitioner at first did not appear before the Deputy Commissioner and the Deputy Commissioner straightway ordered the draft notification u/s 6 to be prepared. The matter was then referred to the Government and the Government directed the Deputy Commissioner to hold an enquiry before the notification u/s 6 could be issued. When the matter came before the Deputy Commissioner on the 20th April, 1955, an order was passed

by the Deputy Commissioner which runs as follows:

Read letter No. RA. 223/54/19 of 23-3-1955 forwarding the objection petition of the Manager, Naharkatia T.E. against acquisition of the land. Shri P.C. Das, E.A.C. will please fix a date to hear objection and report in due course for my perusal. Send a copy of the Government letter with a copy of the objection petition to Executive Engineer, D/E. Division for his information and to attend on the date fixed, if necessary.

Thereafter Shri P.C. Das, E.A.C. who was deputed to make an inquiry fixed several dates for examining witnesses and objections were heard and the report was submitted by him to the Deputy Commissioner. The Deputy Commissioner after perusal of the report sent by him asked the pleader of the Petitioner to appear before him on 2nd July, 1955. On that date he heard the pleader for the Petitioner and also asked the Executive Engineer D/Western Division to see him on 4-7-1955. On 6th July again he heard the pleader for the Petitioner and the Executive Engineer and thereafter the report was sent by him to the State Government for necessary action.

We are informed that the notification u/s 6 of the Act was issued by the State Government subsequently. The contention raised by the learned Counsel for the Petitioner is that there was non-compliance with the provisions of Section 5A of the Land Acquisition Act and therefore the entire proceedings held by the Deputy Commissioner were illegal and no right therefore accrued to the State Government to issue a notification u/s 6 of the Land Acquisition Act. Section 5A, Sub-section (2) provides as follows:

(2) Every objection under Sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Provincial Government together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Provincial Government on the objections shall be final.

2. The only duty cast under this sub-section on the Deputy Commissioner is to hear the objections and after making any further inquiry as he thinks necessary to submit his report for decision to the State Government. In this case from the order sheet it is clear that the objections were heard and opportunity was given to the Petitioner's counsel to submit his arguments before the Deputy Commissioner. He only asked the officer concerned to make an inquiry and the officer gave an opportunity to the Petitioner to produce his evidence before him. Section 5-A(2) enjoins upon the Deputy Commissioner to hear the objections and make such inquiry as he thinks necessary. He heard the pleader for the parties and inquiry was made by Shri P.C. Das whose report the Deputy Commissioner concerned examined, there was thus compliance with the provisions of Section 5-

A(2). In this view of the matter the proceedings cannot be hold to be illegal and the Petitioner in our opinion is not entitled to any relief under Article 226 of the Constitution. The rule is discharged. Hearing fee is fixed at Rs. 85/-.

H. Deka, J.

3. I agree.