



GAHC010003892012

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

Case No. : WP(C)/1222/2012

RNT PLANTATIONS LIMITED
OWNER- LUKWAH TEA ESTATE, A COMPANY DULY INCORPORATED
UNDER THE COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE AT 1
and 2, OLD COURT HOUSE CORNER, KOLKATA-1 OWNING LUKWAH TEA
ESTATE AT P.O. LUKWAH DIST. SIVSAGAR, ASSAM.

VERSUS

OIL and NATURAL GAS CORPORATION LTD. and ORS
A GOVERNMENT OF INDIA UNDERTAKING EASTERN REGION, ASSAM
ASSET, P.O. NAZIRA, DIST. SIVSAGAR, ASSAM , DULY REPRESENTED BY
THE EXECUTIVE DIRECTOR-CUM- ASSET MANAGER.

2:THE COMPETENT AUTHORITY-CUM
DEPUTY COMMISSIONER
ASSAM RENEWAL PROJECT
OFFICE OF THE DEPUTY COMMISSIONER
SIVSAGAR
ASSAM.

3:THE ADDL. DEPUTY COMMISSIONER
OFFICE OF THE DEPUTY COMMISSIONER
SIVSAGAR
ASSAM

Advocate for the Petitioner : MRSS KEJRIWAL

Advocate for the Respondent : MR.G N SAHEWALLA



Date of hearing : 22.08.2023.

Date of judgment : **22.08.2023.**

JUDGMENT & ORDER (Oral)

Heard Mr. S. K. Kejriwal, learned counsel appearing for the writ petitioner. Also heard Mr. G. N. Sahewalla, learned senior counsel assisted by Mr. Anix Singh, learned counsel appearing for the respondent No.1 and Mr. B. J. Talukdar, learned senior counsel assisted by Mr. P. K. Medhi, learned counsel appearing for the respondent Nos.2 and 3.

2. This is the second time that the writ petitioner had to approach this Court by filing this writ petition seeking more or less similar nature of relief. The facts of the case leading to the filing of the writ petition, briefly stated, are to the effect that the writ petitioner is a company carrying on business *inter-alia* of plantation, manufacturing and sale of tea. The petitioner company is the owner of Lukwah Tea Estate situated in the district of Sivasagar. As per the case projected in the writ petition, several plots of land falling under the Lukwah Tea Estate has been used either temporarily or permanently by the respondent No.1 for the purpose of activities such as drilling for exploration of oil and gas and also for laying down pipelines. In the above process, land measuring 114 Bighas 1 Katha and 19 Lechas belonging to the Lukwah Tea Estate has been utilised by the respondent No.1 in various form. The petitioner has been paid rental and crop compensation for the land. However, no compensation

as required under Section 10(4) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 as well as compensation in terms of the provisions of the Land Acquisition Act, 1894 had been paid to the petitioner till date. Hence, this writ petition.

3. The petitioner company had earlier approached this Court by filing WP(C) No.4117/2011 *inter-alia* praying for a direction upon the respondents to pay compensation to the petitioner in respect of the 114 bighas of land by assessing the compensation for the damage caused to the land in addition to other reliefs prayed for in the said writ petition. Since the petitioner has confined its grievance only to the question of payment of compensation for the 114 bighas of land allegedly used by the ONGC i.e. the respondent No.1, it would not be necessary for this Court to go into the other aspect of the matter agitated in WP(C) No.4117/2011.

4. By the judgment and order dated 05.09.2011 the learned Single Judge had disposed of the aforesaid writ petition wherein the relief prayed for by the petitioner company pertaining to the 114 bighas of land was dealt with in paragraph 6 sub-para (i), which is reproduced herein below :-

“i) The competent authority-cum-Deputy Commissioner, Sivasagar, shall make an enquiry as to whether the petitioner had been paid the amount of compensation in respect of 114-bigha of land, which was earlier acquired under the provisions of the Act. In such enquiry the writ petitioner as well as the respondent authorities shall produce the necessary papers enabling the competent authority to complete such enquiry and pass necessary order. In case any amount is found to be due and payable to the petitioner the same shall be paid by the ONGC by depositing the same with the competent authority-cum-Deputy Commissioner, Sivasagar. The said exercise is directed to



be completed within a period of two months from today.”

5. In terms of the directions contained in the order dated 05.09.2011, the respondent No.3 i.e. the Additional Deputy Commissioner, Sivasagar had prepared a report which was forwarded to the respondent No.1 as well as the writ petitioner by the letter dated 31.12.2011 issued by the Deputy Commissioner, Sivasagar. The grievance of the petitioner is that although the enquiry report forwarded on 31.12.2011 clearly indicates that the petitioner was entitled to receive compensation, no action has been taken by the respondent No.1 for payment of compensation. Aggrieved thereby, the present writ petition has been filed.

6. By referring to the enquiry report prepared in terms of the order dated 05.09.2011 passed by this Court, Mr. Kejriwal, learned counsel for the petitioner submits that the report clearly indicates that with regard to Item Nos.12, 30, 32, 33, 35, 36, 37, 38 and 39 only the rental and crops compensation have been paid to the writ petitioner but no compensation on the market value of the land as provided under Section 10(4) of the Act of 1962 has either been assessed or paid to the petitioner till today. Mr. Kejriwal further submits that with regard to Item Nos. 15A and 23 of the enquiry report, since the land was acquired on permanent basis, hence, the petitioner was entitled to receive compensation under the provisions of the Act of 1894 which has also not been done till today. Contending that since no assessment has been made nor has award been passed under the Act of 1894, hence, in view of the provision of Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, assessment of



compensation payable in respect of the above land, according to Mr. Kejriwal, would now have to be made as per the provisions of the Act of 2013. The learned counsel for the petitioner has, therefore, submitted that a direction be issued by this Court to the respondent No.2 i.e. the Deputy Commissioner of the District (now re-designated as District Commissioner) to carry out the above action and complete the necessary formalities by making assessment of the amount of compensation receivable by the petitioner. A direction be also issued to the respondent No.1 to release the amount of compensation without further delay as soon as the assessment is made by the respondent No.2.

7. Responding to the above argument, Mr. Sahewalla, learned senior counsel for the respondent No.1 submits that since the usage of the land has been going on since past 4/5 decades and in bits and pieces, it would be wrong to say that the petitioner has not received any compensation. The learned senior counsel for the respondent No.1 has, however, fairly submitted that if any amount of compensation is found due and payable to the petitioner under the law, his client would not shy away from paying such compensation provided, proper assessment of the same is made by the competent authority by following the due procedure as laid down by law.

8. Similar is the stand of Mr. B. J. Talukdar, learned senior counsel appearing for the respondent Nos.2 and 3.

9. After going through the materials available on record, I find that the enquiry report prepared in terms of the order dated 05.09.2011 elaborately deals with the claim of the petitioner for payment of compensation. In the enquiry report, the compensation payable to the petitioner for each and every parcel of land



corresponding to the different items have been reflected. However, unfortunately, the enquiry report does not reflect the amount of compensation that would be receivable by the petitioner on a proper assessment of the market value of the land. If that be so, it is clear that the enquiry report forwarded on 31.12.2011 did not complete the process necessary for release of the amount of compensation payable to the petitioner.

10. After a careful reading of the provisions of Section 10(4) of the Act of 1962 as well as the relevant provisions of the Act of 2013, this Court is left with no manner of hesitation that before any direction can be issued by any authority for release of amount of compensation, proper assessment of the land and the compensation payable in respect thereof would have to be made by the competent authority, which in the present case, is the respondent No.2.

11. Therefore, without expressing any opinion on the claims and counter-claims of the parties, this writ petition is being disposed of with a direction upon the respondent Nos.2 and 3 to make assessment of the amount of compensation payable to the petitioner by following the prescribed procedure laid down in the Act of 1962 in so far as the claim for payment of 10% market value of the land is concerned. In so far as the amount of compensation claimed with regard to Item Nos.15A and 23 of the enquiry report is concerned, the respondent Nos.2 and 3 shall examine as to whether the aforesaid claim is required to be assessed under the provisions of the Act of 2013 and if satisfied in that regard, may proceed to make assessment of the amount of compensation. Facilitating the above, the writ petitioner as well as the respondent No.1 may present relevant documents and other records before the respondent No.2



in support of their respective claims, within three months from today. The respondent Nos.2 and 3 to complete the process of assessing the amount of compensation, prepare a report and thereafter, proceed to pass an award in respect thereof. The aforesaid exercise be completed within an outer limit of six months from the date of receipt of a certified copy of this order.

With the above observation, this writ petition stands disposed of.

JUDGE

T U Choudhury/Sr.PS

Comparing Assistant