

**IN THE GAUHATI HIGH COURT**  
**(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)**  
**ITANAGAR BENCH**

**WP (C) 17 (AP) 2017**

1. Shri Tacho Tech, S/o Taso Tech, Vill-Pakro, P.O.-Ve, P.S. Seppa, Circle –Pijirang, East Kameng District, A.P.
2. Shri Radhe Tayem, S/o Lt. Tagumbo Tayem, Vill-Taroyer, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
3. Shri Rojo Natung, S/o Tagom Natung, Vill-Sede, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
4. Shri Dera Tachang, S/o Nikpi Tachang, Vill-Pakro, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
5. Shri Rajiv Tok, S/o Basang Tok, Vill-Pakro, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
6. Shri Dogum Tech, S/o Taling Tech, Vill-Pakro, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
7. Shri Laying Tech, S/o Sotack Tachang, Vill-Pakro, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
8. Shri Lagung Natung, S/o Baga Natung, Vill-Pakro, P.O.-Ve, P.S. Seppa, Circle-Pijirang, East Kameng District, A.P.
9. Shri Tech Hemu, S/o Sotack Tachang, Vill-Niti Darlong,

P.O.-Sejosa,  
East Kameng District, A.P.

.....**Petitioners**

**-Versus-**

1. Union of India represented by the Secretary,  
Ministry of Road, Transport and Highway,  
Govt. of India, Transport Bhawan, No. 1,  
Parliament Street, New Delhi-110001.
2. The Superintending Engineer & Ro, MORT & H,  
Govt. of India, Ministry of Road, Transport and  
Highway Regional Office, SARDP-NE Cell, First Floor,  
Campus of CE (WZ), Mowb-II, Itanagar, A.P.
3. The State of Arunachal Pradesh, represented by the  
Secretary/ Commissioner, PWD, Govt. of Arunachal  
Pradesh, Itanagar.
4. The Chief Engineer, Highway PWD, Govt. of Arunachal  
Pradesh, Itanagar.
5. The Executive Engineer, Highway Division-Nirjuli,  
PWD, Govt. of Arunachal Pradesh, Itanagar.
6. The Secretary, Department of Land Management, Govt.  
Arunachal Pradesh.
7. The Deputy Commissioner, East Kameng District,  
Govt. of Arunachal Pradesh, Seppa.
8. Sushee-IVRCL, Arunachal Pradesh Ltd.,  
SPDs Building, OPP.Bungalow No. 3, Nitibihar,  
Itanagar-791111, Arunachal Pradesh.
- 1.** The Ex-Officio Assistant Commissioner,  
Daporijo, Dist-Upper Subansiri,  
Arunachal Pradesh.

.....**Respondents**

For the Petitioners : Mr. A. Kashyap, Adv.  
For the State Respondents : Ms. A. Mize, Govt. Adv.  
:Mr. R. Saikia, standing counsel PWD.  
:Ms. H. Jeram, for respondent No. 8.

Date of hearing : **18-09-2017**  
Date of judgment (Oral) : 18-09-2017.

**::BEFORE::**  
**THE HON'BLE MR JUSTICE A. M. BUJOR BARUA**

**JUDGMENT AND ORDER (ORAL)**

Heard Mr. A. Kashyap, learned counsel for the petitioners and  
Ms. A. Mize, learned Addl. Sr. Govt. Advocate appearing for the State  
respondents.

Also heard Mr. R. Saikia, learned standing counsel for PWD authorities of the Govt. of Arunachal Pradesh for the Highways and Ms. H. Jeram, learned counsel for respondent No. 8.

**2].** The petitioners are the land owners in different villages of East Kameng District, namely, Sede, Patiwa, Veo, Taroyar and Pakro. All the petitioners have a common cause of action to the extent that certain private land of theirs were taken over possession by the respondent authorities for the purpose of construction of Trans Arunachal Highway. The grievances of the petitioners are that in spite of their land being taken over, no compensation has been paid. Earlier there were certain issues as regards the cancellation of Land Possession Certificate of the petitioner and accordingly, the earlier writ petition were preferred, wherein, the authorities were asked to re-consider the cancellation of LPC and further to initiate appropriate land acquisition proceeding for payment of compensation to the petitioners. As appropriate acquisition proceeding was not initiated, the petitioner preferred this writ petition. In this writ petition, an earlier order dated 20.01.2017 was passed wherein the aforesaid aspect were recorded. It was also recorded that one of the reason in the delay of the land proceeding was that there was a change in the Highway alignment and the land of the petitioners were included in the deviated alignment.

**3].** Be that as it may, in the earlier order of 20.01.2017, it was directed in the interim that the respondent authorities would immediately make a survey of the land that have been taken over and prepare a Zirat of the trees and structures standing thereon. It was further provided that the said interim order would not preclude the respondents from proceeding with the land acquisition as per law. In the aforesaid situation, an affidavit-in-opposition has been filed on behalf of respondent No. 7 being the Extra Assistant Commissioner in the office of the Deputy Commissioner, East Kameng District, Seppa, wherein in Para-10, it has been stated that the draft notification for acquisition of the land was forwarded to the Secretary, Land Management, Govt. of Arunachal Pradesh vide LM-Notification/2016,

dated 19.08.2016 for issuance of Preliminary Notification under Section 11 of Land Acquisition of Rehabilitation and Resettlement Act, 2013.

**4].** In the aforesaid premises, we have arrived at a situation, where the state authorities have initiated the process for land acquisition and the matter be brought to its end. But in Annexure-3 series of the said affidavit, the compensation payable has been assessed as per Govt. Notification No. LM-63/2011, dated 26.11.2011. Mr. Kashyap, learned counsel for the petitioners has raised an apprehension that as the said land acquisition is as per earlier land acquisition Act of 1894, the compensation as per the earlier Act may be paid and that further the said compensation is for community land and not for private land.

**5].** Be that as it may, it is noticed that Para-10 of the affidavit filed by the State respondents indicates that the primary notification had been issued under Section 11 of "the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" and accordingly, it is understood that the respondent authorities would make the determination of the compensation as per the provision of 2013 Act and not as per notification of 2011 Act which pertains to the earlier Act of 1894.

**6].** Be that as it may, even if the acquisition process of the land of the petitioners has been initiated as per earlier land acquisition Act of 1894 but by virtue of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" as no award was made under Section 11 of the earlier Act, the compensation has to be determined as per the 2013 Act. Further, in this respect, there is also a primary notification of the State respondent dated 30.03.2017 as regards the land of the petitioners wherein it is also provided that the said notification is issued under the Act of 2013.

**7].** In view of the aforesaid provision, this writ petition is disposed of with a direction that the respondent authorities shall bring the

process of land acquisition initiated by the primary notification dated 30.03.2017 to its logical end by following the procedure under “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”.

As agreed to by the State respondents, the said proceeding be brought to its end within 31.03.2018 meaning thereby within the financial year of 2017-18.

It is clarified that when the proceeding has been initiated under the 2013 Act, therefore, the entire proceeding including that of compensation would be made as per the Act of 2013.

In terms of the above, this writ petition stands disposed of.

**JUDGE**

*ra/om*