GAHC020007222025 2026:GAU-NL:545

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

Case No. : WP(C)/222/2025

MEDONGULIE RUTSA
S/O LATE RHEILHOULIE RUTSA, PERNANENT R/O P KHEL, KOHIMA VILLAGE, KOHIMA DISTRICT, NAGALAND-797003

VERSUS

UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, PARIVAHAN BHAWAN 1, SANSAD MARG, NEW DELHI-110001

2:STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY
GOVT. OF NAGALAND
NAGALAND CIVIL SECRETARIAT
KOHIMA-797001

3:THE DEPUTY COMMISSIONER
KOHIMA NAGALAND-797001

4:THE MANAGING DIRECTOR
NHIDCL
PTI BUILDING
4 PARLIAMENT STREET SANSAD MARG AREA
NEW DELHI-110001

5:THE EXECUTIVE DIRECTOR (P)
NHIDCL REGIONAL OFFICE
KOHIMA PWD COLONY
KOHIMA-797001
NAGALAND

6:THE GENERAL MANAGER (PROJECTS)

PROJECT MONITORING UNIT (PMU)
NHIDCL
JAKHAMA
KOHIMA NAGALAND-797107

7:M/S NIRAJ CEMENT STRUCTURALS LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR
NIRAJ HOUSE
SUNDER BAUG
NEAR DEONAR BUS DEPOT
CHEMBUR MUMBAI-40008

Advocate for the Petitioner : L. IRALU, MENOSIENO

Advocate for the Respondent : CGSC,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 12.10.2026

1. Heard learned counsel for the Petitioner, Mr. L. Iralu; also heard Mr. Akhrieu Chusi, learned counsel for Respondent Nos. 4, 5 and 6; Learned Senior Government Advocate, Mr. Moa Imchen, for the Respondent Nos. 2 and 3 and Mr. Chingyang Phom, learned counsel for Respondent No. 1.

2. Steps were taken by the Petitioner for service on the Respondent No. 7 through the NHIDCL and vide order dated 01.09.2026, this Court had noted that the Respondent Nos. 4, 5 and 6 had affected service of notice upon the Respondent No. 7 by dasti mode and to that effect an affidavit has also been filed before this Court on 13.03.2026 and it was observed that the service on Respondent No. 7 stood completed. However, none appears for the Respondent No. 7 when the matter is heard today.

3. By filing the instant writ petition, the Petitioner has prayed for a direction to the Respondents to pay due compensation as determined and

payable in law for the earth-cutting damages caused to the Petitioner's land on account of the road construction carried out in connection with the Kohima - ByPass - 2-Lane Road Project, Kohima Nagaland under SARDP - NE (Package-III).

4. The facts leading to the filing of the instant writ petition is that the Respondent authorities had acquired a portion of the Petitioner's ancestral land to undertake the construction of the Kohima - ByPass - 2-Lane Road Project (Package-III). Pursuant to the acquisition, due compensation has also been paid to the Petitioner.

5. Subsequently, sometime during the later stage of the year 2023, the Petitioner was informed that his land falling outside the purview of the ROW were excavated and extensively damaged without authority of law. Thereafter, the Petitioner submitted Representation dated 02.04.2024 to the Deputy Commissioner, Kohima with copies endorsed to the NHIDCL. In the representation the Petitioner sought for a survey over his land to ascertain the actual damage and for assessment and payment of due compensation.

6. Thereafter, after some delay the said survey was conducted and by letter No. LRSO/K/TECH-86/2017-18/126 dated 14.02.2025, the District Land Records and Survey Officer submitted a survey report written to the Deputy Commissioner, which is reproduced herein below:

"GOVERNMENT OF NAGALAND
OFFICE OF THE DISTRICT LAND RECORDS & SURVEY OFFICER
KOHIMA:::NAGALAND
NO.LRSO/K/TECH-86/2017-18/126 Dated Kohima, the 14th Feb, 2025

To,

The Deputy Commissioner
Kohima, Nagaland.

SUB: SUBMISSION OF SURVEY REPORT OF DETAILS OF EXCESS CUTTING OF LAND BELONGING TO SHRI. MEDONGULIE RUTSA (PLOT NO. 60) AT PACKAGE-III OF KOHIMA-MANIPUR 2-LANE BYPASS ROAD.

Sir,

With reference to your letter ***NO.REV/2LANE/COMPLAINTS/PART/2023/7'A'*** *Dated Kohima, the 7th Feb '2025 and on the subject cited above, I have the honor to submit herewith the survey report of details and excess cutting of land belonging to Shri Medongulie Rutsa (Plot no. 60) at Package-III of Kohima-Manipur 2-lane ByPass Road. The excess cutting area is found to be measuring 1395 Sq.mts or 15015 Sq.fts on a scale of 1:1000. The areas and boundaries are as indicated in the scale map enclosed herewith for your ready reference.*

Submitted for further necessary action.

Enclosed:-

1. *Scale Map.*

Yours faithfully,
Sd/-
(ZAKIESATUO LHONGU)
District Land Records & Survey Officer
Kohima: Nagaland"

7. The said letter dated 14.02.2025 has also enclosed the scale map showing the details of excess of land in favour of the Petitioner. In the said letter, it is stated that the excess cutting was found to be 1,395 sq. mtrs. or 15015 sq. ft. on a scale of 1:1000. However, the amount of compensation to be awarded was not quantified or assessed.

8. It is the submission of the learned counsel for the Petitioner that the Respondent authorities are legally bound to assess and release the compensation that is due to him. It is stated that in spite of the delay and his representations, the Respondent authorities are yet to quantify the

amount of compensation to be paid and the same has not been released to him. It is submitted that his right to property under Article 300A and his right to life under Article 21 of the Constitution has been violated by the negligence of the Respondents without any authority of law.

9. It is the prayer of the Petitioner that the Deputy Commissioner and the NHIDCL may be directed to assess the compensation which is due to him and to pay the same within a specified time period.

10. Learned counsel, Mr. Akhrieu Chusi, appearing for the Respondent Nos. 4-6/NHIDCL has submitted that the Respondents are not disputing the survey report submitted vide letter dated 14.02.2025 and the area of the excess cutting is also not disputed. However, learned counsel submits that according to the terms and conditions of the contract awarded to Respondent No. 7, the area of excess cutting under the damaged portion of the Petitioner's land is outside the ROW and, therefore, it is the Respondent No. 7 who should be held liable to pay the compensation.

11. Learned counsel for the Respondent Nos. 4-6 also makes reference to paragraph 4 of the affidavit-in-opposition of the Respondent Nos. 4-6 wherein it is stated that as per the contract previously executed with the Respondent No. 7, it is stated that ***"The Contractor shall bear full risk in, and take full responsibility for, the care of the Works, and of the Materials, goods and equipment for incorporation therein, from the Appointed Date until the date of Completion Certificate."*** And also the provisions of the contract at Article 4.1(iv) which states that "***The Contractor shall remedy any and all loss,***

defects or damage to the Project Highway from the Appointed Date until the end of the Construction Period at the Contractor's cost, save and except to the extent that any such loss, defect or damage shall have arisen from any willful default or negligence of the Authority."

12. In view of the facts and circumstances as stated above and in view of the fact that the damages caused to the Petitioner's land on account of the road construction activities is not disputed by any of the parties, the instant petition is disposed of at this stage with a direction to the Deputy Commissioner to assess and quantify the amount of compensation payable to the Petitioner in pursuance of the survey report submitted by the District Land Records and Survey Officer, Kohima, Nagaland dated 14.02.2025 in coordination with the NHIDCL authorities, and thereafter, the NHIDCL shall release the compensation to the Petitioner. In the event the contract allows for recovery of the same from the Contractor/Respondent No. 7, the NHIDCL shall be at liberty to do so.

13. The entire exercise shall be carried out by the Deputy Commissioner, Kohima/ Respondent No. 2 and the NHIDCL authorities within a period of 3 [three] months from the date of receipt of this order.

14. With the above directions this petition stands disposed of.

JUDGE

Comparing Assistant