

GAHC010055272026



2026:GAU-AS:11864

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

Case No.: WP(C)/5746/2025

FAIZUR RAHMAN LASKAR
(ATTORNEY OF 1. ABDUL MATIN LASKAR
2. ATAUR RAHMAN LASKAR AND 3. SAFIQR RAHMAN LASKAR) SON OF
LATE ABU TAHIR LASKAR
RESIDENT OF VILL- DAKSHIN KRISHNAPUR
P.O.- SONABARI GHAT
P.S.- SILCHAR
DIST- CACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM
DEPARTMENT OF REVENUE AND D.M (L.R)
ASSAM (CIVIL) SECRETARIAT
DISPUR
GUWAHATI-06

2:THE UNION OF INDIA
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
INDIA
MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS
TRANSPORT BHAWAN
PARLIAMENT STREET
NEW DELHI- 110001

3:THE MANAGING DIRECTOR
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED
1ST AND 2ND FLOOR

TOWER A
WORLD TRADE CENTRE
NAUROJI NAGAR
NEW DELHI-110029.

4:THE DISTRICT COMMISSIONER
CACHAR
SILCHAR
DIST- CACHAR
ASSAM-788001

5:THE ADDITIONAL DISTRICT COMMISSIONER
CACHAR
SILCHAR
DIST- CACHAR
ASSAM-788001

6:ABDUL MATLIB LASKAR
SON OF GULAM HUSSAIN LASKAR
RESIDENT OF VILL- RONGPUR PT-II
SILCHAR
DIST- CACHAR
ASSAM
788009

7:ABDUL SUKKUR LASKAR
SON OF LATE MASARAF ALI LASKAR
RESIDENT OF VILL- RONGPUR PT-II
SILCHAR
DIST- CACHAR
ASSAM
788009.

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioners	: Mr. A. R. Bhuyan, Sr. Advocate Mr. S. Abdullah, Advocate
Advocate for the respondents	: Mr. R. Borpujari, SC, Revenue Mrs. R. Borah, SC, NHIDCL Mr. H. Sarmah, Addl. Sr. GA Mr. P. K. Roychoudhury,

Sr. Advocate
Mr. S. A. Ahmed, Advocate

Date on which judgment is reserved : NA
Date of pronouncement of judgment : 19.08.2026
Whether the pronouncement is of the
Operative part of the judgment? : Yes
Whether the full judgment has been
Pronounced? : No.

JUDGMENT AND ORDER (ORAL)

Heard Mr. A. R. Bhuyan, the learned Senior Counsel assisted by Mr. S. Abdullah, the learned counsel appearing on behalf of the Petitioners. Mr. R. Borpujari, the learned counsel appears on behalf of the Respondent No.1; Mrs. R. Borah, the learned counsel appears on behalf of the Respondent Nos.2 & 3; Mr. H. Sarmah, the learned Additional Senior Government Advocate appears on behalf of the Respondent Nos.4 & 5 and Mr. P. K. Roychoudhury, the learned Senior Counsel assisted by Mr. S. A. Ahmed, the learned counsel appears on behalf of the Respondent No.6 & 7.

2. The present writ petition has been filed by the Petitioners assailing the Speaking Order dated 07.01.2025 passed by the Additional District Commissioner, Cachar and further seeking a direction upon the Respondent Nos.4 and 5 to dispose of the representations dated 10.01.2025 and 24.01.2025.

3. The brief facts which led to the filing of the instant writ petition are that for the purpose of building (widening/four-laning etc.) maintenance, management and operation of NH-306 in the stretch of land from Km. 0+000 to Km. 20+000, in the district of Cachar, acquisition proceedings have been initiated under the National Highways Act, 1956 (for short, 'the Act of 1956'). Amongst the various plots of land which have been acquired by issuance of Notification under Section 3D of the Act of 1956, Dag No.15 of the 2nd RS Patta No.7 had been acquired. During the course of hearing, the Notification under Section 3D of the Act of 1956 which was issued on 21.07.2023, was placed before this Court which is kept on record and marked with the letter "X".

4. From a perusal of the said Notification under Section 3D of the Act of 1956, the names of the Respondent Nos.6 and 7 and their predecessors are mentioned. However, the names of the Petitioners are not mentioned. It is further apparent from the materials on record that in terms with award statement made under Section 3G of the Act of 1956, the Central Government had already deposited the compensation for onward disbursement to the persons interested. The Petitioners who claim rights over the said land, approached the Respondent No.5 who is the Competent Authority of Land Acquisition thereby raising disputes to the entitlement of the Respondent Nos. 6

and 7 to the compensation and claiming apportionment of the compensation.

5. The Respondent No.5 passed the impugned order dated 07.01.2025 wherein it was mentioned that taking into account that the names of the Respondent Nos.6 & 7 featured in the award under Section 3G of the Act of 1956 and they were dispossessed from the land, 50% of the zirat compensation may be paid to Respondent Nos.6 & 7 so as to enable them to shift from the site and the remaining 50% of the amount of the zirat compensation would be deposited before the learned District and Sessions Judge, Silchar. Being aggrieved, the present writ petition.

6. The learned Coordinate Bench of this Court vide the order dated 26.09.2025 issued notice and directed that no amount should be released without taking the leave of the Court.

7. The Respondent Nos.6 & 7 thereupon have appeared before this Court and filed an Interlocutory Application for vacating the order dated 26.09.2025 which is registered and numbered as IA(C) No.8687/2026. The said Interlocutory Application has come up for disposal before this Court today and taking into account that disposing the Interlocutory Application, this Court be required to enter into merits, this Court with the consent of the parties has taken up the instant writ petition for final disposal.

8. The question arises in the instant proceedings is as to whether the course of action taken by the Respondent No.5 calls for interference?

9. The materials on record show that the names of the Respondent Nos. 6 and 7 along with their predecessor-in-interest feature in the Notification dated 21.07.2023. Apart from that, the Respondent Nos. 6 and 7 are in possession of the lands which have been acquired.

10. The claim of the Petitioners is based upon that they have filed a suit claiming right, title and interest, and as such, no payment should be made to the Respondent Nos.6 and 7. This Court also finds it relevant to take note of that the submission made by the learned Senior Counsel for the Petitioners that the Petitioners' land though not acquired in terms with the Notification issued under Section 3D of the Act of 1956, but possession of the Petitioners' lands were taken.

11. In the opinion of this Court that the provisions of the Act of 1956 is a self contained code to decide various aspect relating to the acquisition of lands. If disputes arise as regards the inadequacy of compensation, Section 3G of the Act of 1956 provides adequate remedies. If there is any dispute as regards the person who is entitled or for that matter how much a person is entitled to in respect to determined compensation, Section 3H of the Act of 1956 provides adequate remedies. In fact, in a proceedings under Section 3H (4) of

the Act of 1956, the Reference Court is equipped with the jurisdiction to incidentally decide the questions of title for determining entitlement to the compensation or apportionment of the compensation. In this regard, this Court finds it relevant to take note of a recent judgment of the Supreme Court rendered in the case of ***K. Venkataswamy and Others vs. Gowramma and Another***, reported in ***2026 SCC OnLine SC 1487*** wherein the Supreme Court explained the scope and ambit of Section 3H of the Act of 1956. Paragraph Nos.22.1 to 22.7 of the said judgment being relevant are reproduced herein under:-

“22.1. At this stage, it becomes necessary to examine the true scope and ambit of Section 3H of the National Highways Act, 1956. Since the controversy in the present appeal turns upon the interpretation of sub-section (4) thereof, the relevant provisions are extracted below:—

"3H. Deposit and payment of amount.— (1) *The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.*

(2) *As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.*

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons

who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated."

" ...

22.2. Section 3H was introduced by Act 16 of 1997 as part of the comprehensive legislative framework governing acquisition of land for National Highways. While the amendment sought to facilitate expeditious acquisition for development of national highway infrastructure, it simultaneously recognised the corresponding right of persons deprived of their property to receive just compensation.

22.3. The scheme of Sections 3G and 3H is, therefore, complementary. Section 3G provides for determination of the amount payable upon acquisition, whereas Section 3H prescribes the mechanism for its deposit and disbursement. Under sub-section (2), the competent authority is under a statutory obligation to disburse the compensation to the person or persons entitled thereto. Where rival claims are raised, sub-section (3) casts a further duty upon the competent authority to determine, in its opinion, the persons entitled to receive the compensation and the extent of their respective shares.

22.4. Recognising, however, that disputes of a more complex nature may arise, Parliament enacted sub-section (4). It provides that where any dispute arises either regarding the apportionment of the compensation or

regarding the person to whom the compensation, or any part thereof, is payable, the competent authority shall refer the dispute to the principal civil court of original jurisdiction within whose territorial jurisdiction the acquired land is situated.

22.5. The expression "any person to whom the amount... is payable" cannot be read in isolation or assigned a narrow meaning. The entitlement to receive compensation necessarily flows from the legal right over the acquired property immediately prior to its acquisition. Consequently, where rival claimants assert competing rights to the acquired land, the determination of the person entitled to receive compensation inevitably requires an adjudication of the underlying claim of title. Such an inquiry is incidental and integral to the jurisdiction conferred under Section 3H(4).

22.6. We are, therefore, unable to concur with the view taken by the High Court that the Reference Court lacks jurisdiction to examine disputes relating to title. To accept such an interpretation would render the expression "person to whom the amount is payable" otiose and substantially defeat the object of the reference contemplated under Section 3H(4). A reference to the principal civil court is not intended to be a mere ministerial purpose of dividing the compensation amongst claimants. Its purpose is to secure a judicial determination of the person lawfully entitled to receive the compensation where such entitlement itself is disputed.

22.7. The jurisdiction exercised by the Reference Court under Section 3H(4) is, therefore, wide enough to incidentally determine questions of title insofar as such determination is necessary for deciding the person

entitled to the compensation arising out of the acquisition. Any contrary interpretation would frustrate the legislative scheme and compel parties to simultaneously pursue independent civil suits for declaration of title, thereby defeating the very object of referring the dispute to the principal civil court."

12. In the backdrop of the above, the records would show that the names of the Respondent Nos.6 and 7 have been included in the Awards made under Section 3G of the Act of 1956. This Court also had taken note of that the names of the Respondent Nos.6 and 7 and their predecessor-in-interest have also been mentioned in the Notification under Section 3D of the Act of 1956 which is kept on record and marked with the letter "X". The lands acquired in terms with the Notification dated 21.07.2023 were in possession of the Respondent Nos.6 & 7. The Respondent No.5 in the impugned order observed that 50% of the zirat compensation should be paid to the Respondent Nos.6 and 7 so as to enable them to shift from the site. In addition to that, the Respondent No.5 also observed that the remaining amount of the 50% of the zirat compensation would be deposited before the Court of the learned District and Sessions Judge, Cachar at Silchar as per rule.

13. It is the opinion of this Court that the reasons so assigned in the impugned order dated 07.01.2025 appears to be in accordance with the Scheme of the Act of 1956. However, it is also the opinion of this

Court that if the Respondent Nos.6 and 7 are released the 50% of the compensation, there is a requirement of obtaining necessary surety like an indemnity Bond so that in the event the proceedings under Section 3H(4) of the Act of 1956 is decided against the Respondent Nos.6 and 7, the said amount can be recovered from the Respondent Nos.6 and 7 and paid to the Petitioners.

14. It is also the opinion of this Court that the Respondent No.5 should forthwith refer the dispute to the Court of the learned District Judge, Cachar, Silchar for adjudication in terms with Section 3H(4) of the Act of 1956.

15. Accordingly, this Court therefore, disposes of the instant writ petition with the following observations and directions:-

(i) This Court directs the Respondent No.5 who is the Competent Authority of Land Acquisition to forthwith upon receipt of a certified copy of this judgment, refer the dispute between the Petitioners as well as the Respondent Nos.6 & 7 to the Court of the learned District Judge, Silchar. The learned District Judge, Silchar shall decide the said proceedings in terms with the mandate as contained in Section 3H(4) of the Act of 1956.

(ii) The Respondent No.5 is directed to release the 50% of the zirat compensation in favour of the Respondent Nos.6 & 7 upon

undertaking being given by the Respondent Nos.6 & 7 that in the circumstance, the reference proceedings before the learned District Judge, Silchar is decided against the Respondent Nos.6 & 7, they would return the amount to the Court of the learned District Judge, Cachar at Silchar. Additionally, an indemnity Bond should also be furnished to the Respondent No.5 by the Respondent Nos.6 & 7.

(iii) As regards the remaining 50% of the zirat compensation, the same shall be deposited by the Respondent No.5 before the Court of the learned District Judge, Silchar which shall be disbursed upon such decision being taken by the learned District Judge, Silchar in terms with Section 3H(4) of the Act of 1956.

(iv) Interim order stands vacated.

(v) No order as to costs.

JUDGE

Comparing Assistant