

GAHC010023322022



2026:GAU-AS:4029

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

Case No. : WP(C)/1055/2022

SMTI. ARATI BHAR AND 5 ORS
D/O LATE MATILAL BHAR

2: NARESH LAL BHAR
S/O LATE MATILAL BHAR

3: GANESH LAL BHAR
S/O LATE MATILAL BHAR

4: TILAK LAL BHAR
S/O LATE MATILAL BHAR
ALL ARE R/O VILL-KATIRAIL
P.O.-KATIRAIL
P.S.-KATIGORAH
DIST-CACHAR
ASSAM
PIN-788804

5: MALATI RANI BHAR
D/O LATE MATILAL BHAR
W/O MURALI BHAR
R/O VILL-ROOPACHERRA BASTI
P.S.-KATICHERRA
DIST-HAILAKANDI
ASSAM
PIN-788161

6: SANDHYA RANI BHAR
D/O LATE MATILAL BHAR
W/O MAHENDRA BHAR
R/O VILL- RATAKANDI T.E.
P.O.-RATAKANDI BASTI

P.S.-HAILAKANDI
DIST- HAILAKANDI
ASSAM
PIN-78815

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI-06

3:THE DEPUTY COMMISSIONER-CUM-COLLECTOR
CACHAR
DIST- CACHAR
ASSAM

4:THE ADDITIONAL DEPUTY COMMISSIONER
CACHAR
DIST-CACHAR
ASSAM

5:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
PUBLIC WORKS (NH) DEPARTMENT
DISPUR
GUWAHATI-06

6:THE EXECUTIVE ENGINEER
PWD
NH DIVISION
SILCHAR
DIST- CACHAR
ASSAM
PIN-788001

7:THE OFFICER COMMANDING
112 RCC (GREF)
C/O 99 APO

PIN-930112

8:THE OFFICER COMMANDING
97 RCC (GREF)
C/O 99 APO
PIN-93011

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Advocates:

For the petitioner : Mr. P.K. Deka, Advocate

For the respondents: Ms. A. Gayan, CGC
Ms. M. Das, Advocate
Ms. N. Bordoloi, Advocate
Ms. D.D. Barman, Advocate

Date on which judgment is reserved: N/A
Date of pronouncement of judgment: 19.03.2026
Whether the pronouncement is of the
Operative part of the judgment : N/A
Whether the full judgment has been
Pronounced : Yes

Judgment & order (ORAL)

Heard Mr. P.K. Deka, learned counsel for the petitioners. Also heard Ms. A. Gayan, learned CGC, for the respondents No. 1, 7 and 8; Ms. N. Bordoloi, learned Standing counsel, for the respondent No.2; Ms. D.D. Barman, learned State counsel, for the respondent No.3 and Ms. M. Das, learned Standing Counsel, PWD, for the respondents No. 5 and 6.

2. By filing this petition, the petitioners have prayed for a direction to the respondent authorities to return their parcels of land measuring 2 bighas 14 kathas and 12 lechas covered by Dag No. 288/293 and Patta No. 115/117 located at village Siddeswar Part-II, in the District Cachar, Assam. The petitioners have also prayed for payment of outstanding rent, which is alleged to have been accrued over the years in respect of the said land.

3. The case of the petitioners, in a nutshell, is that the petitioners, six in numbers, who are the descendants of late **Matilal** Bhar, claim to have inherited the right over the land measuring 2 bighas 14 kathas 12 lechas covered by Dag No. 288/293 under Patta No. 115/117 of Village Siddeswar Part-II in the district of Cachar. The said land was requisitioned by the Deputy Commissioner, Cachar on 26.11.1964 vide R.C. No. 8/L/1964-65, under Section 3(I) of Assam Land (Requisition and Acquisition) Act, 1964 as the land was required for maintaining supply and service of essentials to the life of the community and for establishment of 'A' company Headquarter of BRO. After taking possession of the said land, the same was handed over to the respondent BRTF (GREF).

4. Thereafter, the land acquisition proceedings was initiated by the Deputy Commissioner, Cachar vide LA 6/2002-2003 for acquisition of the said land by issuance of notification under Section 4 of the Land Acquisition Act, 1894 (since repealed). However, the declaration under Section 6 of the Land Acquisition Act, 1894 (since repealed) was issued on 21.06.2013.

5. It is the contention of the petitioners that the land was under requisition from 26.11.1964 and was paid requisition initially for certain period and the father of the petitioners received the last requisition rent only on 05.08.2005 which is supported by the Memo indicating disbursement of requisition rent for a particular period. After 05.08.2005, the petitioners were not paid any requisition rent. It is contended

that the land of the petitioners was not acquired by following any valid process of acquisition as the respondents have not brought anything on record as regards their claim of acquisition by following due acquisition process under the relevant provision of law, except some process indicating initiation for acquisition.

6. The petitioners contend that although an amount of Rs.6,36,655/- (rupees six lakh thirty six thousand six hundred fifty five) only had been deposited by the respondent BRTF (GREF) before the Deputy Commissioner, Cachar, to be paid to the petitioners, no payment has been made to the petitioners. The petitioners contend that since the land has been utilized by the respondent authorities since 1964, without there being any valid acquisition proceeding and without payment of compensation or requisition rent, but the respondent BRTF handed over the land to the respondent PWD, the petitioners are entitled to take back the land. Therefore, the respondent authorities may be directed to hand over the land to the petitioners as there was no proper acquisition proceeding nor the requisition rent been paid to the petitioners.

7. The respondents No. 6 and 7 i.e., GREF has filed an affidavit, which indicates that the Deputy Commissioner, Cachar had directed vide an order passed in LA 6/2002-03 to deposit an amount of Rs.6,36,655/- (rupees six lakh thirty six thousand six hundred fifty five) only as compensation against acquisition of the said land of the petitioners, which was deposited with the Deputy Commissioner, Cachar on 08.04.2008.

8. The stand of the respondents PWD reflects, inter alia, that the land belonging to the petitioners was handed over by the Deputy Commissioner, Cachar to the respondent PWD on 16.12.2014 for the purpose of construction of road with the assistance of 112 RCC (GREF).

9. Mr. P.K. Deka, learned counsel for the petitioners submits that there is no

dispute as regards the ownership of the land in question as the petitioners are the pattadars, who have inherited the land from their late father Matilal Bhar. It is also not in dispute that no valid acquisition proceeding was undertaken by the respondent authorities for acquiring the land of the petitioners. It is only at the initial stage the requisition rent was paid to the father of the petitioners and the land was under the continuous possession of the respondents since 1964 which has been finally, handed over to the respondents PWD and is still under the possession of the respondent PWD without there being any further acquisition or payment of compensation as per law.

10. Ms. A. Gayan, learned CGC submits that an acquisition proceeding was undertaken by the competent authority for acquisition of the land in question and the land in question was initially handed over to the respondent GREF and also the requisition rent was paid to the pattadar. An amount of Rs.6,36,655/- (rupees six lakh thirty six thousand six hundred fifty five) only was directed to be deposited for payment of compensation to the land owner. In compliance thereof the respondent GREF deposited the said amount with the Deputy Commissioner, Cachar. Thereafter, the respondent GREF has handed over the land to the concerned authorities and, therefore, the respondents GREF has no role to play so far as the claim of the petitioners as regards claiming back and handing over the land to them and in respect of their claim either for compensation or requisition rent.

11. Ms. M. Das, learned Standing Counsel, PWD, without adverting to all other stands taken by the State respondents, submits that the land, no doubt, is with the PWD at present and the petitioners may approach the concerned authorities for redressal of their grievances, if any, with a proper justification to their claim with relevant papers, including agreement copies with GREF, so that in the event it is found that the petitioners are entitled to claim back the land and for payment of any requisition rent, their claim could be addressed in accordance with law.

12. I have considered the submissions advanced by the learned counsel for the parties and have perused the materials available on record.

13. Before advertng to the merit of the matter, it is worth noting that considering the issue involved in this proceeding, ample opportunities were given to the respondents to produce the record as regards the acquisition and requisition of the land in question. However, the learned counsel for the State respondents has failed to produce the records on some pretext or other. Under such circumstances, this Court has no option but to proceed with the matter.

14. The petitioners appear to be the pattadars by virtue of being descendants of late Matilal Bhar, who had allowed the GREF to take the land on payment of requisition rent, which, in fact was paid initially for a particular period. The Deputy Commissioner, Cachar, initiated a proceeding subsequently for acquisition of the land in question, for which an amount of compensation appears to have been deposited with the Deputy Commissioner, Cachar. However, the same has not been disbursed either to the late father of the petitioners or to the petitioners.

15. Later on, the respondents GREF had relinquished the land in question and handed over the same to the respondent PWD. The Additional Deputy Commissioner, Cachar, vide communication dated 27.02.2019 issued to the Executive Engineer, PWD, NH Division (Silchar) had informed that a portion of the land, including the land of the petitioners located at village Siddeswar Part-II in the district of Cachar, was under the possession of 112 GREF (BRTF). The said land was vacated by the BRTF and handed over to the PWD, thereby relinquishing the possession over the land with the request to hand over the same to the pattadars. In that regard, the Additional Deputy Commissioner, Cachar, had sought for views from the Executive Engineer, PWD, NH Division, Silchar. In response to the same,

the Executive Engineer, PWD, NH Division, Silchar had admitted that the parcels of the land, including the land of the petitioners was handed over to the PWD NH Division, Silchar by the GREF (BRTF) on 16.12.2015 along with 29 numbers of accommodations. However, it has been intimated that nothing has been mentioned by the BRTF authority regarding the ownership of the land in question by any pattadar and there was no mention of relinquishment of the said land or handing over the land to the pattadars. In such a situation, it has been informed that the claimant/pattadar, if any, may approach the concerned authorities with a justification of their claim with all relevant papers including agreement, if any, with the BRTF (GREF) so that the matter can be redressed by the competent authority.

16. Upon careful consideration of limited materials available on record, it is seen that the father of the petitioners appear to have received the requisition rent for some time, however, no requisition rent appears to have been paid to the petitioners after the demise of their late father. The Deputy Commissioner initiated a land acquisition proceeding subsequently wherein, an order was passed for a compensation amount of Rs.6,36,655/-(rupees six lakh thirty six thousand six hundred fifty five) only to be paid to the pattadars/land owners and the same was deposited with the Deputy Commissioner by the BRTF. However, nothing has been brought on record as regards the disbursement/payment of the said compensation to any pattadars.

17. It is not in dispute that the respondent BRTF, who initially was in occupation of the land in question, has handed over the same to the respondent PWD, which is currently under the possession of the PWD, without there being any valid proper acquisition and/or payment of any rent or compensation to the pattadars.

18. Having considered that the petitioners appear to be the pattadars of the land in question, and their land having been under the occupation and possession of the

respondents, without there being any valid acquisition or payment of any compensation or requisition rent, I am of the considered view that the petitioners are entitled to get back the said land with payment of requisition rent. However, considering that at one point of time, the father of the petitioners was paid with the requisition rent and the Deputy Commissioner, Cachar has initiated proceedings and assessed the compensation amount at Rs.6,36,655/-(rupees six lakh thirty six thousand six hundred fifty five) only, which has been deposited with the Deputy Commissioner, Cachar, I deem it appropriate to direct that the amount of compensation, as assessed and deposited with the Deputy Commissioner, Cachar, be paid to the petitioners as requisition rent in view of the fact that the petitioners were deprived of the land without any authority of law. It is directed, accordingly.

19. For complete settlement of the issue and in view of the lackadaisical attitude of the State respondents in the present proceeding as well as considering the interest of the parties, it is further directed that the petitioners shall approach the respondent authorities, particularly, the Deputy Commissioner, Cachar, within a period of 20 days from today, by filing an application raising their grievance as regards payment of requisition rent. The Deputy Commissioner, Cachar shall consider and decide the same within 2 (two) months from the date of receipt of the application that would be filed by the petitioners.

20. As regards the claim of return of the land to the petitioners, since there is no dispute as regards the ownership of the land, the land in question be returned and handed over to the petitioners within a period of 3 (three) months from the date of settlement of the other issue as directed herein above, if the land is not required for any public purpose and, if it is so required, the authorities would be at liberty to acquire the same by following due procedure of law.

21. With the above observation and direction, the writ petition stands disposed

of. No order as to costs.

JUDGE

Comparing Assistant