

GAHC010132742025



2026:GAU-AS:5926

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

Case No. : CRP(IO)/240/2025

ABDUL HAMID

S/O- LATE SIRAJ UDDIN, R/O- VILL.- SUPRABANDI, P.O. MANIKGANJ, DIST.
SRIBHUMI, ASSAM, PIN- 788712.

VERSUS

ILIAS UDDIN AND 10 ORS

S/O- LATE MAIN UDDIN, R/O- VILL.- SUPRAKANDI, P.O. MANIKGANJ, P.S.
AND DIST. SRIBHUMI, ASSAM

2:ALTAF HUSSAIN

S/O- LATE MOIN UDDIN
R/O- VILL.- SUPRAKANDI
P.O. MANIKGANJ
P.S. AND DIST. SRIBHUMI
ASSAM

3:JAYNAL ABEDIN

S/O- LATE MOIN UDDIN
R/O- VILL.- SUPRAKANDI
P.O. MANIKGANJ
P.S. AND DIST. SRIBHUMI
ASSAM

4:JALAL AHMED

S/O- LATE MOIN UDDIN
R/O- VILL.- SUPRAKANDI
P.O. MANIKGANJ
P.S. AND DIST. SRIBHUMI
ASSAM

5:MINAL UDDIN

S/O- LATE MOIN UDDIN
R/O- VILL.- SUPRAKANDI

P.O. MANIKGANJ
P.S. AND DIST. SRIBHUMI
ASSAM

6:THE STATE OF ASSAM
REPERSENTED BY THE COMMISSIONER AND SECRETARY
REVENUE DEPARTMENT
GOVT. OF ASSAM
DISPUR
GHY-781006.

7:THE SETTLEMENT OFFICER
SRIBHUMI
P.O.
P.S. AND DIST. SRIBHUMI
ASSAM

8:THE CIRCLE OFFICER
SRIBHUMI SADAR CIRCLE
P.O. SETTLEMENT
P.S. AND DIST. SRIBHUMI
ASSAM

9:KULCHUMA KHANAM
D/O- LATE MOIN UDDIN
W/O- KUBUD UDDIN TAPADAR
R/O- VILL.- CHAMALA
P.O. FAKUAGRAM
P.S. NILAMBAZAR
DIST. SRIBHUMI
ASSAM

10:FATIMA BEGUM
D/O- LATE MOIN UDDIN
W/O- ABUL HASAN
R/O- VILL.- KABARIBOND
P.O. AND P.S. PATHARKANDI
DIST. SRIBHUMI
ASSAM

11:THE OFFICE OF THE DEPUTY COMMISSIONER
SRIBHUMI
P.O AND P.S - SRIBHUMI
DISTRICT- SRIBHUMI

Advocate for the Petitioner : MR. S C BISWAS, MR. A IKBAL,MS. U NANDA,MS. S.
CHANDA,G IMTIAZ,MS. J GHOSH

Advocate for the Respondent : GA, ASSAM, MR S ISLAM (R-5),MR S ISLAM (R-1,2,3,4,9,10),SC,
REVENUE

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

Advocates for the Petitioner : Mr. A. Ikbal
Advocates for the Respondent
Nos. 1-5, 9 &10 : Mr. S. Islam,
: Mr. M. A. Choudhury
Advocates for the Respondent
Nos. 7, 8 & 11 : Mr. K. K. Bhattacharyya,
G.A., Assam

Date on which judgment is reserved : **05-03-2026**

Date of pronouncement of judgment : **29-04-2026**

Whether the Pronouncement is of the
operative part of the judgment? : N/A

Whether the full judgment has been
pronounced? : Yes

JUDGMENT & ORDER (CAV)

Heard Mr. A. Ikbal, learned counsel for the petitioner and Mr. S. Islam, learned counsel for the respondent Nos. 1 to 5, 9 and 10. Also heard Mr. K. K. Bhattacharyya, learned Government Advocate, Assam for the respondent Nos. 7, 8 and 11.

2. This application filed under Section 227 of the Constitution of India read with Section 151 of the CPC against the orders dated 28.02.2025 and 29.04.2025, passed by the learned Civil Judge (Jr. Div.) No.3, Sribhumi in Title Suit No. 105/2017.

3. The brief facts of the case is that a civil suit was instituted by one Jamila Khatun and others in the year 2017, which has been numbered as T.S. No. 105/2017 before the Court of learned Civil Judge (Jr. Div.) No.3 at Sribhumi for declaration of right, title and interest, recovery of khas possession through eviction and injunction against the present respondents who appeared there as defendants of this case. Subsequently, the respondent Nos. 9 and 10 were also impleaded as defendants in the said suit.

4. It is stated by the plaintiff that they are the legal heirs of Torab Ali, who is the owner and possessor of the suit land. It is further stated that after his death, his two sons inherited the property and the petitioner No.1 is the son of

Siraj Uddin and the plaintiffs are the legal heirs of Abdul Hoque. In the said suit the notices were served to the defendants/respondents and accordingly, they appeared before the learned Trial Court and contested the suit. The defendant Nos. 1, 2, 3 and 5 filed their written statements-cum-counter claim on 07.08.2017 denying all the averments made by the plaintiff and further prayed for declaration over 0.15 acre of land over Schedule 1 and Schedule 2 of the Counter Claim vide right of inheritance, for confirmation of possession for mutation and also for cancellation of the Document No. 2978 dated 19.05.2002 being a partition deed and Swarnalipi dated 15.11.1981 and also prayed for injunction. The defendant No. 4 also filed written statement on 10.07.2018 in support of their written statement-cum-counter claim of the defendant Nos. 1, 2 3 and 5 and denied all the averments made in the plaint by the plaintiffs.

5. But during the pendency of the said T.S. No. 105/2017, the defendants with ill motive had filed a Petition No. 363 dated 28.02.2025 for a direction by the Hon'ble Court to the District Commissioner and his official. i.e., L.A. Branch, Sribjumi not to disburse any compensation amount in favour of the plaintiffs or any other persons by attracting the land of deed No. 2978 dated 19.05.2004 in respect of **Dag No. 293, Patta No. 288** and **Final Khatian No. 135** of Mouza-Lakarkhai.

6. The Court of learned Civil Judge (Jr. Div.) No.3, Sribhumi had passed the order on 28.02.2025 without providing any copy of the petition to the plaintiffs, nor giving any opportunity of hearing had passed the order by restraining any disbursement of compensation amount until any further orders and accordingly, the District Commissioner was directed not to disburse the compensation amount to any person until further orders of the learned Trial Court.

7. In the meantime, the petitioner was entitled for compensation against the acquisition of land of **Dag No. 293, Patta No. 288** under Bharatmala Project and as such, the impugned order dated 28.02.2025, passed by the learned Civil Judge (Jr. Div.) No.3, Sribhumi, the petitioner No.1 was deprived of his rightful share in compensation against the acquisition of his land pertaining to **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai.

8. Mr. Iqbal, learned counsel further submitted that no notice was also served upon the petitioner prior to passing the order, nor the petitioner was made a party in the said T.S. No. 105/2017 even though the land pertaining to **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai is not a subject matter of T.S. No. 105/2017. On being aggrieved by the said order dated 28.02.2025, passed by the learned Civil Judge (Jr. Div.) No.3, Sribhumi, the petitioner as a 3rd party to the suit, filed a petition under 151 CPC on 25.03.2025 praying for setting aside and vacating the order dated 28.02.2025 on the ground that the land pertaining to **Dag No.293, Patta No. 288** and **Final Khatian No. 135** has no involvement in T.S. No. 105/2017.

9. The plaintiffs also filed a petition dated 27.03.2025 in support of the averments made by the petitioner No.1. In response to the said petition, the defendant Nos. 1 to 5, 9 and 10 also filed their written objection on 23.04.2025. Upon hearing the parties, the learned Trial Court had rejected the petitions filed the petitioner as a 3rd party as well as the plaintiffs vide its order dated 29.04.2025.

10. Mr. Iqbal submitted that the said land pertaining **Dag No.293, Patta No. 288** and **Final Khatian No. 135** is not the subject matter of T.S. No. 105/2017

and as such, there cannot be claim or prayer by the parties in regards to right, title, interest or the compensation against the acquisitioned land which was awarded in favour of the petitioner No.1.

11. The learned Trial Court while passing the orders dated 28.02.2025 and 29.04.2025 failed to consider the provision of law laid down in Sections 63 and 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As per said Sections of the Act of 2013, the Civil Court have no jurisdiction to entertain any dispute in relation to land acquisition matter and as such, in view of the same also the impugned order dated 28.02.2025 is liable to be set aside.

12. He further submitted that there is a complete violation of principles of natural justice as the petitioner who is the affected party for the order passed by the learned Trial Court dated 28.02.2025 was not given any opportunity of hearing and the order has been passed in favour of the defendants. Accordingly, it is submitted that the orders dated 28.02.2025 and 29.04.2025 passed by learned Trial Court in T.S. No. 105/2017 should be set aside and quashed.

13. Mr. Iqbal, learned counsel further submitted that the suit land pertains to the land measuring 0.30 acres Pargona-Kushiarkul, Mouza-Suprakandi, wherein the Khatian Number is 351/354/10 of Patta No. 180 and Sabek Dag No. 508(old)/498(new). Thus, the land which has been acquisitioned by the Deputy Commissioner comprising of the **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai is not the suit land or subject matter of the case to pass any order/direction to the Deputy Commissioner restraining him in disbursing the compensation amount for the acquisition of land.

14. More so, it is submitted by Mr. Iqbal, learned counsel that without even impleading the Deputy Commissioner as party, the learned Trial Court had passed the order/direction from restraining the Deputy Commissioner not to disburse the compensation amount. He further submitted that at the time of acquisition of land, he was in exclusive possession of the land and after completion of the acquisition process, the petitioner at present is a landless person, whose entire land has been acquired by the Government under the Bharatmala project and even after acquisition of his entire land, the petitioner is not getting any compensation due to the order passed by the learned Trial Court.

15. He further submitted that if there is any dispute in regards to compensation of the acquired land, the parties at best, may approach the reference Court or the High Court but jurisdiction of the Civil Court is totally barred under Sections 63 and 64 of the Act of 2013.

16. Mr. Islam, learned counsel for the respondent submitted in this regard that the petitioner as a 3rd party has no locus standi to file such kind of petition and he further submitted that the learned Trial Court had rightly passed the order as the respondent as a defendant has also challenged the said partition deed, which is also the subject matter of the case and the said acquired land also falls under their claim or the partition deed.

17. He further submitted that the earlier old Dag No. 252 had converted to new Dag No. 293 which falls under the partition deed, the defendant/respondent also filed a complaint case claiming that the partition deed is a forged one and in the same time, they have also challenged the said

partition deed i.e., deed No 2978 and thus, it cannot be said that the acquisition land or land the land in question is not the subject matter of the suit, rather, as the acquisition land falls under the partition deed, which is under challenge, the learned Trial Court had passed the order considering all these aspects of the case and hence, there is no reason to make any interference in the order passed by the learned Trial Court.

18. Mr. Bhattacharyya, learned Government Advocate, Assam submitted that the land in question has already been acquisitioned by the Government and at the time of acquisition the 3rd party petitioner was found in actual physical possession over the land. Due to the order passed by the learned Trial Court, there is delay in disbursing the money and hence, there should not be further delay in disbursing the money as the 3rd party is the actual physical possession over the land which was acquisitioned by the Government.

19. In that context Mr. Iqbal, learned counsel further submitted that the land possession certificate is also issued in his favour by the Circle Officer, Karimganj and he was in actual possession at the time of acquisition of the land and accordingly, it is submitted by Mr. Iqbal that the learned Trial Court while passing the order did not consider this aspect of the case and mechanically passed the order only on the prayer made by the defendant/respondent, wherein, in their counter-claim also they have not claimed for the land under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza-Lakarkhai.

20. Mr. Iqbal, learned counsel accordingly prayed for setting aside the impugned orders dated 28.02.2025 and 29.04.2025, passed by the learned Civil

Judge (Jr. Div.) No. 3, Sribhumi in T.S. No. 105/2017.

21. After hearing the submissions made by the learned counsel for the parties and I have also perused the records, the annexures filed along with the petition and the impugned order passed by the learned Trial Court.

22. It is a fact that the present petitioner has not been made a party to the Title Suit, who, claimed himself to be the owner/possessor of the land of **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai.

23. On the other hand, the defendant/respondent, during the pendency of the Title Suit filed a petition on 28.02.2025 for a direction to the Deputy Commissioner and his office, i.e., L. A. Branch not to disburse the compensation amount in favour of the plaintiff or any other person in respect of the land from **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai which falls under the Partition Deed No. 2978 dated 19.05.2004. From the plaint it is admittedly seen that the description provided in Schedule 1 and Schedule 2 land does not cover the land under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai. But it is the claim of the respondent/defendant they not only prayed for right, title interest over the suit land through their counter claim but they also claimed for cancelation of Partition Deed No. 2978 dated 19.05.2004 and the land in question also falls under the same partition deed which is under challenge at present and hence, if any land is acquisitioned by the Government and if any compensation is disbursed in the name of the plaintiff or any other person it may cause prejudice to the respondent/defendant as the entire partition deed is under challenge.

24. During the pendency of the said Title Suit, the respondent/defendant had filed a petition, being No. 363 dated 28.02.2025 claiming that after receipt of the notice they have already filed their joint written statement and the counter claim wherein, they prayed for cancellation of the Partition Deed No. 2978 dated 19.05.2004 to be declared as a forged and fabricated document with a further claim that during pendency of the suit in collusion with others, the plaintiffs are trying to withdraw the compensation amount for the land acquisitioned by the Government for the purpose of Bharatmala Project. It is further stated in the said petition to not to disburse any amount of compensation wherein the land fall under the Partition Deed No. 2978 dated 19.05.2004 and it also claimed that the **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza-Lakarkhai also falls under the said Partition Deed and accordingly prayed for a direction to the Deputy Commissioner concerned not to disburse any amount of compensation in favour of either plaintiff or any other person.

25. Further, it is a fact that on 28.02.2025 an order has been passed by the learned Trial Court and on that day itself without hearing the plaintiff's side only considering the urgency of the matter, a direction was passed to the Deputy Commissioner not to disburse any compensation amount for the land acquisitioned under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai which has been acquisitioned under the Bharatmala Project as it is the observation of the Court that if the urgent direction is not given to the Deputy Commissioner, prejudice may cause to the defendant. But as per the present petitioner/3rd party, the said land is not the subject matter of the suit and there is no mention or description of the said land neither in the plaint nor in the written statement or counter claim filed by the respondent/defendant and

it is their claim that the land in question was exclusively under their possession.

26. Thereafter, the present petitioner as 3rd party had appeared before the learned Trial Court with a petition and in the meantime the plaintiff also submitted an application praying to pass any direction restraining the Deputy Commissioner from disbursing the awarded compensation amount with the same plea that the land under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai is not the subject matter or suit land described in the plaint, nor it is the subject matter or the claimed property in the counter claim filed by the respondent/defendant. Against the said petition, the respondent/defendant also filed their written objection wherein it is claimed that as the defendant had prayed for cancelation of alleged Partition Deed No. 2978 dated 19.05.2004 is a subject matter of the suit land, the 3rd party muted the land under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza- Lakarkhai in his name only on the strength of alleged partition deed, so if any compensation is awarded for the land acquisitioned under Bharatmala Project, the respondent/defendant will be prejudiced as the said partition deed is still under challenge in the said Title Suit.

27. After considering the petition filed by the present applicant as 3rd party and the petition filed by the plaintiff also considered the written objection filed by the defendant/respondent, the learned Trial Court accordingly passed the order dated 29.04.2025 rejecting the petition filed by the petitioner as a 3rd party as well as the petition filed by the plaintiff. It is the observation made by the learned Trial Court that the validity of the Deed No. 2978 dated 19.05.2004 is under challenge in the said case and said deed includes the land covered

under the Dag No.293, although the Dag is not exclusively mentioned in the schedule of the pleadings submitted by the parties and it is also observed that the deed which is under challenge is the subject matter of the suit land which includes all property described therein including the land in question which falls under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza-Lakarkhai.

28. It is further the claim of the respondent/defendant that the said land falls under the Partition Deed which is under challenge and the old Dag No. 252 is converted to new Dag No. 293 of Final Khatian No. 135, but admittedly the respondent/defendant could not produce any document to that regard to prove the conversion of Dag No. 252 to Dag No. 293 under Khatian No. 135 of Mouza-Lakarkhai.

29. But from the perusal of the copy of the Jamabandi it is seen that the land under **Dag No.293, Patta No. 288** and **Final Khatian No. 135** of Mouza-Lakarkhai was mutated in the name of the present petitioner/3rd party only on the basis of the Partition Deed No. 2978 dated 19.05.2004. Thus, it is seen that his mutation is exclusively on the basis of the partition deed which is admittedly under challenge. Though the respondent/defendant could not produce any such document in regards to conversion of the old Dag No.252 to new Dag No. 293, but fact remains same that the land in question falls under the said deed of partition and the land in question also muted in the name of the petitioner/3rd party only on the basis of the said deed of partition.

30. As per Section 63 and 64 of the Act, 2013 there is a bar of Civil Court to entertain any dispute relating to land acquisition and in respect of which the

Collector or the authority is empowered by the said Act and no injunction can also be granted by any other Court in such matters and under Section 64 of the said Act, the person aggrieved to any acquisition proceeding filed a case of Reference. But here in the instant case, the situation is different as it is not a case of any challenge against the order of acquisition or compensation so awarded by the Government. It is the case wherein the challenge was made regarding the disbursement of money only in the context that the land which is acquisitioned by the Government falls under the partition deed which is under challenge and on the basis of which only the petitioner got his name mutated over the land in question and thus, it cannot be held directly that there is complete bar under Section 63 of the Act, 2013 in entertaining such kind of petition wherein there is no direct involvement of process of acquisition or compensation awarded by the authority concerned.

31. So considering all these aspects of the case, this Court is of the opinion that the learned Trial Court committed no error or mistake by passing the orders dated 28.02.2025 and 29.04.2025 restraining the Deputy Commissioner from disbursing the compensation amount for the land which has been acquired under the Bharatmala Project and accordingly, this Court finds no reason to interfere with the orders dated 28.02.2025 and 29.04.2025 passed by the learned Trial Court, however, the learned Trial Court is directed to dispose of the matter within a reasonable period of time as it is the case of the present petitioner/3rd party that after acquisition of the land under the Bharatmala Project, they are presently land less person.

32. Further, the petitioner/3rd party may file appropriate application for impleading the petitioner as party in the said Title Suit.

33. With the above observation and direction, the present petition stands disposed of.

JUDGE

Comparing Assistant