

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

AIZAWL BENCH: AIZAWL

REGULAR FIRST APPEAL NO. 30 OF 2012

State of Mizoram, represented by the
Secretary to the Govt. of Mizoram,
Public Works Department.

... Appellant

- Versus-

1. Shri R. Romawia
R/o Bairabi
2. Shri F. Ramzauva,
R/o Bairabi
3. Smt. M. Thanthuami,
R/o Bairabi
4. Smt. Partlani,
R/o Bairabi
5. Smt. C. Lallawmzuali,
R/o Bairabi
6. Shri PC Remdika,
R/o Bairabi
7. Shri Hmangaihzuala,
R/o Bairabi
8. Smt. Thangzuali,
R/o Bairabi
9. Smt. Hmingthangi,
R/o Bairabi
10. Shri Hrangkunga,
R/o Bairabi

11.Smt. Juliet Lalsiampari
R/o Bairabi

12.Shri H. Tawnphunga
R/o Bairabi

13.Shri H. Zirsanga,
R/o Bairabi

14.Shri HD Vanlalbuka,
R/o Bairabi

15.Shri K. Hmangaihzuala,
R/o Bairabi

16.Shri Lalmuankima,
R/o Bairabi

17.Smt. Laltholehi,
R/o Bairabi

18.Smt. Rinfeli,
R/o Bairabi

19.Smt. C. Hmingthangi,
C/o Entiri R/o Bairabi

20.Smt. Malsawmi,
R/o Bairabi

21.Shri J. Lalchhuanawma,
R/o Bairabi

22.Shri C. Vanlalzawma,
R/o Bairabi

23.Shri Vanlalhneha,
R/o Bairabi

24.Smt. Malsawmkimi,
R/o Bairabi

25.Shri R. Lalhmingliana
R/o Bairabi

26.Branch YMA
R/o Bairabi

27.Shri Zairema,
R/o Bairabi

2. The facts of the case as pleaded in the plaint may be noticed at the outset. The District Collector, Kolosib by the notification dated 4-1-2006 had proceeded under the Land Acquisition Act, 1894 (“the Act” for short) to acquire some lands for the purpose of widening NH-154 and had asked the landowners including the respondents to report to him for assessment of the market value of their lands. Ultimately, the Collector passed the Awards No. 1, 2 and 3. As the Awards did not tally with the assessment, the respondents received the compensation under protest. Aggrieved by this, they approached the Departmental authority for re-assessment of the compensation: the authority, having found the acquired lands to be under-valued, made additional compensation for the plaintiffs/respondents (“the respondents” for short). It would appear that the District Collector refused to pay the additional compensation. On the other hand, the State-respondents took steps for evicting the respondents from the acquired lands, which prompted the respondents to file the suit seeking a decree for directing the appellants to pay the additional compensation to them with solatium @ 30% with interest @ 12%. The suit was initially contested by the State-appellants, but when they failed to file their written statement in time, the suit was proceeded with by the trial court and decreed ex-parte.

3. None appears for the respondents despite proper service of notice upon them vide the Registry note dated 24-1-2013. The main contention of Mr. Lalsawirema, the learned counsel for the State-appellants is that the respondents had an alternative remedy under Section 18 of the Act for enhancement of the compensation awarded to them and having failed to take recourse to this

statutory remedy, the suit instituted by them before a civil court was not maintainable: the learned Senior Civil Judge has exceeded his jurisdiction in entertaining and decreeing the suit. I find force in the contention of the learned counsel for the appellants. I have earlier referred to the pleadings of the respondents, and those pleadings leave no shadow of doubt that all the respondents had participated in the land acquisition proceeding in question and were awarded compensation. However, dissatisfied with the compensation awarded to them, all of them had, nevertheless, received the awarded amounts under protest. Needless to say, the statutory remedy open to them was to file an application before the District Collector under Section 18 of the Act for referring their claim to the jurisdictional District Court for enhancement of the compensation amounts payable to them: they did not do so. The learned Senior Civil Judge ought not to have entertained the suit and should have returned the same to the respondents for approaching the appropriate authority: this is *coram non judice*. Therefore, the impugned judgment and decree is non-est and cannot be acted upon.

4. The result of the foregoing discussion is that this appeal succeeds. The impugned judgment and decree is accordingly set aside. The parties are, however, directed to bear their respective cost.

JUDGE

Sushil