

GAHC010226932021



2024:GAU-AS:11336-DB

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

Case No. : WA/55/2022

THE STATE OF ASSAM,
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI-781006.

2: THE DEPUTY COMMISSIONER KAMRUP (METRO)
MAHATMA GANDHI ROAD PANBAZAR GUWAHATI-781001

VERSUS

DIPENDRA ADHIKARI AND 10 ORS. B
S/O LATE UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND
GRAND SON OF LATE RADHIKA NANDA CHOUDHURY AND LATE SAROJ
KUMARI CHOUDHURY, RESIDENT OF HOUSE NO. 129, ADHIKARI HOUSE
CHINMOYEE ADHIKARI PATH, BYE LANE NO. 4, GOPINATH NAGAR,
GUWAHATI 781016, DIST KAMRUP M ASSAM

2:SRI RAJIB CHERIAN

3:SRI SANDEEP CHERIAN

4:SMTI GAYATRI CHERIAN

NOS. 2 AND 3 ARE SONS AND NO. 4 IS DAUGHTER OF LATE DR. PREM
JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI CHERIAN AND
GRAND-SONS AND GRAND-DAUGHTER OF LATE UPENDRA ADHIKARI
AND LATE CHINMOYEE ADHIKARI AND GREAT GRAND-SONS AND
GRAND-DAUGHTER OF LATE RADHIKA NANDA CHOUDHURY AND LATE
SAROJ KUMARI CHOUDHURY.

5:ON THE DEATH OF SMTI MANIKA ADHIKARI
HER LEGAL HEIRS NAMELY

5.1:SMTI. BANASHREE BOSE BANERJEE

5.2:SMTI JAYASHREE BOSE DAS

BOTH NOS. 5.1 AND 5.2 ARE DAUGHTERS OF LATE MANIKA ADHIKARI
WIFE OF SRI CHAMPAK BANERJEE
RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI GUWAHATI-781007
DISTRICT KAMRUP (M) ASSAM.

6:SMTI NAMITA ADHIKARI

WIFE OF LATE JOTIRMOY KAKATI AND DAUGHTER OF LATE UPENDRA
ADHIKARI AND LATE CHINMOYEE ADHIKARI AND GRAND DAUGHTER
OF LATE RADHIKA NANDA CHOUDHURY AND LATE SAROJ KUMARI
CHOUDHURY.

7:SMTI ANIMA ADHIKARI

WIFE OF SRI PALLAB BOSE AND DAUGHTER OF LATE UPENDRA
ADHIKARI AND LATE CHINMOYEE ADHIKARI AND GRAND-DAUGHTER
OF LATE RADHIKA NANDA CHOUDHURY AND LATE SAROJ KUMARI
CHOUDHURY

NOS 6 AND 7 ARE RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI
GUWAHATI 781007
DIST. KAMRUP METRO
ASSAM

RESPONDENT NOS. 2 TO 7 ARE REPRESENTED BY RESPONDENT NO. 1
SRI DIPENDRA ADHIKARI
BEING POWER OF ATTORNEY HOLDER

Advocate for the Petitioner : MR. R BORPUJARI, GA, ASSAM

Advocate for the Respondent : MR. M U MONDAL (R-1), MD H R AHMED (R-1),J ISLAM (R-1),FOR CAVEATOR

Linked Case : I.A.(Civil)/1738/2022

THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR GUWAHATI 06

VERSUS

DIPENDRA ADHIKARI AND 7 ORS.

S/O LATE UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND
GRAND SON OF LATE RADHIKA NANDA CHOUDHURY AND LATE SAROJ
KUMARI CHOUDHURY

RESIDENT OF HOUSE NO. 129

ADHIKARI HOUSE

CHINMOYEE ADHIKARI PATH

BYE LANE NO. 4

GOPINATH NAGAR

GUWAHATI 781016

DIST KAMRUP (METRO) ASSAM.

2:SRI RAJIB CHERIAN

/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI
(CHERIAN) AND GRAND SON OF LATE UPENDRA ADHIKARI AND LATE
CHINMOYEE ADHIKARI AND GREAT GRAND SON OF LATE RADHIKA
NANDA CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY

3:SANDEEP CHERIAN

S/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI
(CHERIAN) AND GRAND SON OF LATE UPENDRA ADHIKARI AND LATE
CHINMOYEE ADHIKARI AND GREAT GRAND SON OF LATE RADHIKA
NANDA CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY

4:SMTI GAYATRI CHERIAN

D/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI
(CHERIAN) AND GRAND DAUGHTER OF LATE UPENDRA ADHIKARI AND
LATE CHINMOYEE ADHIKARI AND GREAT GRAND DAUGHTER OF LATE
RADHIKA NANDA CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY

5:ON THE DEATH OF SMTI MANIKA ADHIKARI

HER LEGAL HEIRS

NAMELY SMTI BANASHREE BOSE BANERJEE

D/O LATE MANIKA ADHIKARI

WIFE OF SRI CHAMPAK BANERJEE

RESIDENT OF HOUSE NO. 43

KASTURBA ASHRAM ROAD

NEAR ISKON MANDIR

SOUTH SARANIA

ULUBARI

GUWAHATI 781007

DIST KAMRUP(METRO)

ASSAM.

6:SMTI JAYASHREE BOSE DAS

D/O LATE MANIKA ADHIKARI

WIFE OF SRI CHAMPAK BANERJEE
RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI
GUWAHATI 781007
DIST KAMRUP(METRO)
ASSAM

7:SMTI NAMITA ADHIKARI
W/O LATE JOTIRMOY KAKATI
AND DAUGHTER OF LATE UPENDRA ADHIKARI AND LATE CHINMOYEE
ADHIKARI AND GRAND DAUGHTER OF LATE RADHIKA NANDA
CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY
RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI
GUWAHATI 781007
DIST KAMRUP M ASSAM.

8:SMTI ANIMA ADHIKARI
W/O SRI PALLAB BOSE AND DAUGHTER OF LATE UPENDRA ADHIKARI
AND LATE CHINMOYEE ADHIKARI AND GRAND DAUGHTER OF LATE
RADHIKA NANDA CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY
RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI
GUWAHATI 781007
DIST KAMRUP M ASSAM RESPONDENT NO. 2 TO 8 ARE REPRESENTED BY
RESPONDENT NO. 1 SRI DIPENDRA ADHIKARI
BEING POWER OF ATTORNEY HOLDER.

Advocate for : MR. R BORPUJARI
Advocate for : MR. S BANIK appearing for DIPENDRA ADHIKARI AND 7 ORS.

Linked Case : I.A.(Civil)/296/2022

THE DEPUTY COMMISSIONER
KAMRUP METRO
MAHATMA GANDHI ROAD
PANBAZAR
GUWAHATI 01

VERSUS

SRI DIPENDRA ADHIKARI AND 10 ORS.

S/O LATE UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND
GRAND SON OF LATE RADHIKA NANDA CHOUDHURY AND LATE SAROJ
KUMARI CHOUDHURY

RESIDENT OF HOUSE NO. 129

ADHIKARI HOUSE CHINMOYEE ADHIKARI PATH

BYE LANE NO. 4

GOPINATH NAGAR

GUWAHATI 781016

DIST KAMRUP M ASSAM

2:RAJIB CHERIAN

S/O LATE DR. PREM JOHN CHERIAN AND LATE DR. RAMALA ADHIKARI
(CHERIAN) AND GRAND SON OF LATE UPENDRA ADHIKARI AND LATE
CHINMOYEE ADHIKARI AND GREAT GRAND SON OF LATE RADHIKA
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(CHERIAN) AND GRAND SON OF LATE UPENDRA ADHIKARI AND LATE
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RADHIKA NANDA CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY

5:ON THE DEATH OF MANIKA ADHIKARI

HER LEGAL HEIRS

RESIDENT OF HOUSE NO. 43

KASTURBA ASHRAM ROAD

NEAR ISKON MANDIR

SOUTH SARANIA

ULUBARI

GUWAHATI 781007

DIST KAMRUP M ASSAM

6:SMTI NAMITA ADHIKARI

W/O LATE JOTIRMOY KAKATI

AND DAUGHTER OF LATE UPENDRA ADHIKARI AND LATE CHINMOYEE
ADHIKARI AND GRAND DAUGHTER OF LATE RADHIKA NANDA
CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY

RESIDENT OF HOUSE NO. 43

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GUWAHATI 781007
DIST KAMRUP M ASSAM

7:SMTI ANIMA ADHIKARI
W/O SRI PALLAB BOSE AND DAUGHTER OF LATE UPENDRA ADHIKARI
AND LATE CHINMOYEE ADHIKARI AND GRAND DAUGHTER OF LATE
RADHIKA NANDA CHOUDHURY AND LATE SAROJ KUMARI CHOUDHURY
RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
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GUWAHATI 781007
DIST KAMRUP M ASSAM
RESPONDENT NO. 2 TO 7 ARE REPRESENTED BY RESPONDENT NO. 1 SRI
DIPENDRA ADHIKARI
BEING POWER OF ATTORNEY HOLDER.

8:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR GUWAHATI 06

9:THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT DISPUR GUWAHATI 06

10:THE SECRETARY TO THE GOVT OF ASSAM
RAJBHAWAN MAHATMA GANDHI ROAD UZAN BAZAR GUWAHATI 01

11:THE ESTATE OFFICER THE GOVERNOR SECRETARIAT
RAJBHAWAN MAHATMA GANDHI ROAD UZAN BAZAR GUWAHATI 01

12:SMTI BANASHREE BOSE BANERJEE
D/O LATE MANIKA ADHIKARI
W/O SRI CHAMPAK BANERJEE
RESIDENT OF HOUSE NO. 43
KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI GUWAHATI 781007
DIST KAMRUP M ASSAM

13:SMTI JAYASHREE BOSE DAS
D/O LATE MANIKA ADHIKARI
W/O SRI CHAMPAK BANERJEE RESIDENT OF HOUSE NO. 43

KASTURBA ASHRAM ROAD
NEAR ISKON MANDIR
SOUTH SARANIA
ULUBARI GUWAHATI 781007
DIST KAMRUP M ASSAM
6) SMTI NAMITA ADHIKARI

Advocate for : MR. R BORPUJARI
Advocate for : GA ASSAM appearing for SRI DIPENDRA ADHIKARI AND 10 ORS.

Linked Case : I.A.(Civil)/780/2024

DIPENDRA ADHIKARI
S/O LATE UPENDRA ADHIKARI AND LATE CHINMOYEE ADHIKARI AND
GRAND SON OF LATE RADHIKA NANDA CHOUDHURY AND LATE SAROJ
KUMARI CHOUDHURY RESIDENT OF HOUSE NO. 129
ADHIKARI HOUSE CHINMOYEE ADHIKARI PATH
BYE LANE NO. 4 GOPINATH NAGAR GUWAHATI 781016
DIST KAMRUP M ASSAM

VERSUS

THE DEPUTY COMMISSIONER KAMRUP (METRO)
MAHATMA GANDHI ROAD PANBAZAR GUWAHATI-781001.

Advocate for : MR. M U MONDAL
Advocate for : GA ASSAM appearing for THE DEPUTY COMMISSIONER
KAMRUP (METRO)

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 12.11.2024

Date of Judgment : 20.11.2024

JUDGMENT & ORDER (CAV)
(N. Unni Krishnan Nair, J.)

Heard Mr. Rajib Borpujari, learned counsel, appearing on behalf of the appellant. Also heard Mr. R. P. Kakoti, learned senior counsel, assisted by Mr. J. Islam, learned counsel, appearing on behalf of respondents No. 1 to 7.

2. The respondents No. 1 to 7, herein, had instituted WP(c)3131/2016, before the writ Court, *inter alia*, praying for adequate compensation in respect of the plot of land of their predecessor-in-interest Late Saroj Kumari Choudhury, acquired for the purpose of building the Raj Bhawan at Kharghuli, Guwahati, in the year 1975. The said writ petition was given a final consideration by the learned Single Judge, and the same was disposed of vide order, dated 11.07.2018, with the following directions:

“9. Considering the submission of the learned counsel, I am of the opinion that the logical conclusion can be inferred from the various reports and the stand of the Government, that land of Late Saroj Kumari Choudhury was acquired for public purposes. This writ petition is accordingly disposed of with a direction to the respondent State, more specifically, the Deputy Commissioner, Kamrup (M) to take up process of compensating the present petitioners at the earliest as per the law keeping in view the point in issue raised in the affidavit-in-opposition and the whole process be completed within a period of 3 (three) months from the date of receipt of certified copy of this order along with the writ petition and its annexures and affidavit-in-opposition filed by the Deputy Commissioner and Additional Deputy Commissioner, Kamrup (M). This writ petition is accordingly disposed of.”

3. The materials available on record reveal that in terms of the directions passed by the learned Single Judge vide the order, dated 11.07.2018, in WP(c)3131/2016; the respondent authorities had carried-out a detailed enquiry in the matter and materials having surfaced in the enquiry which had the effect of disputing the claim made by the respondents No. 1 to 7, in WP(c)3131/2016; a Review Petition being Review Petition No. 106/2019, came to be instituted by the appellant, herein, praying for review of the directions passed by the learned Single Judge vide the order, dated 11.07.2018, in WP(c)3131/2016. The grounds, on which the said Review Petition No. 106/2019, was so instituted by the appellant, herein, being relevant, is extracted hereinbelow:

“iii). For that, subsequent to disposal of the Instant writ petition being W.P.(C) No. 3131 of 2016, an exhaustive enquiry has been conducted and it has been found that land measuring 22 Bighas of Dag No. 121 of patta No. 45 years grant In

village Sahar Kharghuli under Ulubari Mouza, which is in possession of Raj Bhawan was mutated In the name of Sri Prafulla Ch. Baruah vide chitha order of Assistant Settlement Officer, Guwahati on 25.07.1962, the record of which has been corrected on 10.02.1963. The total area of land covered by Dag No. 121 Is 22 Bighas and the entire plot of land under Dag No. 121 is mutated in the name of Sri Prafulla Ch. Baruah, which is supported by certified copy of Sadar Jamabandi dated 03.01.2019, and as such, Late Saroj Kumari Choudhury can have no claim over the land covered by Dag No. 121. Therefore, this Hon'ble Court would be pleased to review the Impugned order dated 11.07.2018.

iv) For that, regarding Dag No. 122, the available record reveals that a plot of land measuring 3 Bighas 4 Kathas 15 Lessas owned by ITC was acquired and payment of compensation of Rs. 1,08,080.45 was paid to ITC Ltd. on 05.04.1979. Further, an area of 11 Bighas 0 Katha 11 Lessas from the said Dag was requisitioned for construction of Raj Bhawan, which was also owned by ITC Ltd. A total area of 15 Blghas-0 Katha-6 Lessas of land covered by Dag No. 122 of patta No. 45 years grant of village Sahar Kharghuli under Ulubari Mouza owned by ITC Ltd. was handed over to PWD for construction of Raj Bhawan and the said land is in possession of Raj Bhawan, and no additional land of Dag No. 122 have been occupied by Raj Bhawan, except the aforesaid land measuring 15 Bighas-0 Katha - 6 Lessas owned by ITC Ltd. which was partly acquired and partly requisitioned, and as such, Late Saroj Kumari Choudhury has no rightful claim on the land covered by Dag No. 122, which is in possession of Raj Bhawan. Therefore, this Hon'ble Court would be pleased to review the Impugned order dated 11.07.2018.

v) For that, a plot of land measuring 2 Bighas-2 Kathas-9 Lessas covered by Dag No. 3663 was acquired vide L.A. Case No. 15/1985 which was jointly owned by 3 (three) pattadars, namely, (1) Smti Saroj Kumari Choudhury, (II) Sri Baidyanath Mukherjee, and, (iii) Smti Nirmala Medhi, and compensation was fixed at Rs. 4,24,296.00 and out of the three pattadars, the share of Smti Nirmala Medhi has already been collected on 03.06.2002, and the balance compensation for the remaining two pattadars has been deposited under Head of Account "8443" Revenue Deposit. Thus, it is revealed that no land of Late Saroj Kumari Choudhury was acquired or requisitioned for construction of Raj Bhawan except for the land covered by Dag No. 3663. Therefore, this Hon'ble Court would be pleased to review the impugned order dated 11.07.2018.

vi) For that, upon exhaustive enquiry as stated hereinabove It has become evidently clear that Late Saroj Kumari Choudhury was not the owner of land under Dag No. 121 since 25.07.1962 and no part of her land under Dag No. 122 was acquired or requisitioned for the purpose of construction of Raj Bhawan at Guwahati, except her share over the plot of land covered by Dag No. 3663 of 45 years grant of village Sahar Kharghuli under Ulubari Mouza, Guwahati. Therefore, this Hon'ble Court would be pleased to review the impugned order dated 11.07.2018."

4. The learned Single Judge, on consideration of the materials coming on

record in the Review Petition No. 106/2019, was pleased to dispose of the same vide order, dated 01.11.2021, with the following manner:

“.....It is repeated again that it is after the order was passed in the writ petition, a thorough search was made by the concerned officials that too after an exhaustive enquiry, the subsequent facts as pleaded in the review petition were discovered. This cannot form grounds of review as there was no appreciation of the said facts at the time of passing the order as they does not form the part of the records.

In view of the same, if this review petition is entertained, the writ petitioners respondents would be highly prejudiced inasmuch they would not get any scope to bring out their defence and to put the same on records.

In view of the same, I am not inclined to exercise the jurisdiction of review. Accordingly, this review petition stands dismissed. However, there are provisions under the Code of Civil Procedure (CPC) though it is not applicable in a writ jurisdiction, but its principle can be taken by a writ court and as such, if at all the petitioners are aggrieved they may prefer an appeal against the order which is the subject matter of this review petition subject to law of limitation.”

- 5.** Being aggrieved, the appellant, herein, has instituted the present proceeding before this Court.
- 6.** We have heard the learned counsels appearing for the parties and also perused the materials coming on record.
- 7.** On a perusal of the materials coming on record, it is apparent that the contentions raised by the appellant, herein, and incorporated as grounds in the Review Petition No. 106/2019, has not been disputed by the respondents No. 1 to 7, neither, before the writ Court, nor, before us, in the present proceeding.
- 8.** The materials now relied upon by the appellant, herein, which has the effect of establishing the fact that the claim made by the respondents No. 1 to 7 in WP(c)3131/2016, to be not sustainable, in the absence of materials

to the contrary being brought on record by the respondents No. 1 to 7 before us in the present proceeding; we are of the considered view that the claim made by the respondents No. 1 to 7, in WP(c)3131/2016, would not be sustainable.

9. The respondents No. 1 to 7, herein, with regard to the land purportedly acquired from their predecessor-in-interest Late Saroj Kumari Choudhury, in WP(c)3131/2016, had contended in paragraph No. 3, as follows:

<i>“Dag No.</i>	<i>Area of land</i>
<i>i) 3663 (56 old)</i>	<i>13 Bighas 2 Kathas 0 Lessa</i>
<i>ii) 121 (62 old)</i>	<i>15 Bighas 4 Kathas 0 Lessa</i>
<i>iii) 122 (57 old)</i>	<i>10 Bighas 4 Kathas 7 Lessas</i>
<i>Total</i>	<i>40 Bighas 7 Lessas</i>

The Petitioners beg to state that out of 60 Bighas 15 Lessas of land the names of the Predecessor Late Smt. Saroj Kumari Choudhury was mutated in the Records of Right in respect of said 40 Bighas 7 Lessas of land.”

10. However, from the materials coming on record in the inquiry conducted by the appellant, herein, and incorporated in the Review Petition No. 106/2019, as grounds which have been extracted hereinabove; it would go to reveal that with regard to the plot of land covered by Dag Nos. 121; the same has been demonstrated to have been so mutated in the name of Sri Prafulla Ch. Baruah vide order, dated 25.07.1962, of the Assistant Settlement Officer, Guwahati, along with correction of records on 10.02.1963. Further, the certified copy of the Sadar Jamabandi, dated 03.01.2019, was also relied upon. The above position has not been countered by the respondent Nos. 1 to 7 by bringing on record, relevant materials. Accordingly, the contention of the appellants that the predecessor-in-interest of the respondent Nos. 1 to 7 can have no claim

over the plot of land covered by Dag No. 121, remains undisputed.

11. With regard to the plot of land covered by Dag No. 122, materials on record reveal that initially, land measuring 3 Bighas 4 Kathas and 15 Lechas, owned by the Indian Tobacco Co. Ltd., was acquired and payment of compensation duly paid to it. Thereafter, a further area of 11 Bighas 0 Katha and 11 Lechas of land owned by the Indian Tobacco Co. Ltd., under Dag No. 122, was requisitioned for construction of Raj Bhawan. The appellants have also asserted that under Dag No. 122, other than land measuring 15 Bighas 0 Katha and 6 Lechas owned by the Indian Tobacco Co. Ltd., which was partially acquired and partly requisitioned, for construction of Raj Bhawan; no land of the predecessor-in-interest of the respondent Nos. 1 to 7 under Dag No. 122, came to be either acquired or requisitioned for the purpose of construction of Raj Bhawan. The respondent Nos. 1 to 7 have not disputed such categorical contentions made by the appellants, by bringing on record, relevant materials. Accordingly, the claim of the respondent Nos. 1 to 7 that the land of their predecessor-in-interest under Dag No. 122, was acquired or requisitioned for construction of Raj Bhawan, would not merit acceptance.

12. With regard to the plot of land covered by Dag No. 3663 which was also acquired vide LA Case No. 15/1985; it has been brought on record that the said plot of land is owned by the 3(three) pattadars namely, Late Saroj Kumari Choudhury; Sri Baidyanath Mukherjee; and Smti. Nirmala Medhi; and the compensation for the acquisition of the said plot of land was computed at Rs. 4,24,296/-.

13. Further, materials on record reveal that said Smti. Nirmala Medhi had collected her share of compensation on 03.06.2002. However, the other 2(two) co-pattadars, namely, Late Saroj Kumari Choudhury and Sri Baidyanath Mukherjee, had not collected their respective shares of compensation and accordingly, the same has been kept in a revenue deposit account.

14. The said materials as available in the matter, would go to highlight that no plot of land of Late Saroj Kumari Choudhury was acquired and/or requisitioned for construction of Raj Bhawan except for her share in the land covered by Dag No. 3663.

15. The respondents No. 1 to 7, as noticed hereinabove, have not disputed the said categorical assertions, based on records, as made by the appellants, by bringing on record, relevant materials. The respondents No. 1 to 7, herein, have only relied upon the earlier affidavits filed in the matter by the State Respondents, which has been demonstrated to have been so filed by the State Respondents without making a proper inquiry into the matter.

16. It is also to be noted that in support of the contentions as raised by the appellant, herein, in Review Petition No. 106/2019, as well as in the present writ appeal; documentary evidence including the Jamabandis as well as the orders passed by the jurisdictional Deputy Commissioner in the matter of acquisition/requisition of the plot of land for construction of the Raj Bhawan, has been brought on record, which also includes the documents pertaining to payments made to Sri Prafulla Ch. Baruah and

Indian Tobacco Co. Ltd., with regard to the plot of land covered by Dag Nos. 121 and 122, respectively.

17. In view of the above position; we are of the considered view that the order, dated 11.07.2018, passed by the learned Single Judge in WP(c)3131/2016, cannot be sustained and accordingly, the same stands interfered with.

18. As it has been contended by the appellant, herein, that the compensation due to the predecessor-in-interest of the respondents No. 1 to 7, herein, i.e. Late Saroj Kumari Choudhury, has been kept in a revenue deposit account along with the share due to the co-pattadar Sri Baidyanath Mukherjee; it would be open to the respondents No. 1 to 7, herein, to claim the said amount, in accordance with law.

19. With the above directions and observations, this writ appeal stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant