



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 431/2013

PETITION NO. 17/2014

ORDER SHEET

In the ASSAM ELECTRICITY REGULATORY COMMISSION
ASEB Campus, Dwarandhar,
G. S. Road, Sixth Mile, Guwahati – 781 022

AERC Misc. Case No. 17/2013

Shri Durga Ram Deka
S/o. Late Dehiram Deka
Village: Jatia, Bhangara
P.O. – Loch, P.S. – Baihata Chariali
Dist.- Kamrup, Assam
PIN - 781381

—— Petitioner

V/s

(1) The Managing Director,
Assam Electricity Grid Corporation Ltd. (AEGCL)
Bijulee Bhawan, Paltan Bazar,
Guwahati – 781001

(2) The Deputy Commissioner,
Kamrup, Amingaon

—— Respondent
Opposite Parties

Present

Shri D. Chakravarty
Member, AERC

Dr. R.K. Gogoi
Member, AERC

Shri N.K. Das
Chairperson, AERC

For the Petitioner :-

Shri Pankaj Kr. Deka, Advocate

For the Respondents :-

1. Shri Dipankar Deka
Asst. General Manager,
AEGCL
representing its Managing Director

2. Shri Hemanta Bharali
Administrative Officer,
Office of the DC, Kamrup

3. Shri Kamal Baishya
ADC, Kamrup

} Both
represented the
DC, Kamrup

Date of Hearing : 06.07.2014 & 16.09.2014

Date of Order : 22.10.2014

ORDER

The AERC Misc. Case 17/2013 was registered on receipt of an application filed by the Petitioner enclosing a Certified copy of the Order passed by the Hon'ble Gauhati High Court on 19/11/2013 in WP(C) No. 3281/2009 Shri Durga Ram Deka vs Managing Director, AEGCL and others along with copy of the Writ Petition and Annexures appended thereto. The order of the Hon'ble High Court is reproduced below:-

Heard Mr. P.K. Deka, the learned counsel for the petitioners, Mr. B Bhattacharjya, the learned counsel for the respondent Nos. 1 to 4, Mr. B J Ghosh, the learned counsel for the respondent Nos. 5 to 8 and Mr. A Das, the learned counsel for the respondent Nos. 9 to 20.

This Court by the order dated 03.06.2013 had passed the following order:

"The dispute in the present case is relating to the payment of compensation by the ASEB for erection of the tower.

According to the petitioners though they are occupancy tenants in respect of the land over which the tower has been erected they have not been paid adequate compensation which, however, has been denied by the respondent Nos. 9 to 20 who are the land owners. According to the said respondents part of jirat compensation was paid to the petitioners and part to the said respondents.

The respondents ASEB has also contended that for erection of the tower the Deputy Commissioner arranged the land on determination of compensation which have been deposited with the Deputy Commissioners by the ASEB and in turn released to the petitioners as well as the private respondents.

Since the issue involved in the present writ petition is relating to the dispute regarding the compensation payable, which under Section 67(4) of the Electricity Act, 2003 is required to be decided by the Commission constituted as per the provision of Section 82 of the said Act, the Commissioner to the Govt. of Assam, Power Department shall file an affidavit relating to the constitution of Commission or otherwise under Section 82 of the said Act. If such Commission has already been constituted, copy of the notification shall be enclosed.

List this case for hearing on 19.7.2013 in the Part I hearing list along with the Misc. case.

As desired by the Court, the respondents have now filed additional affidavit concerning the constitution of Assam Electricity Regulatory Commission (AERC) which became a Multi-Member Commission with a Chairperson and two Members in terms of the order dated 25.02.2005, issued by the Commissioner and Secretary, Government of Assam Power (Electricity Department).

In my opinion, the constitution of the Commission obviates the need for adjudication by this Court of the issues raised by the petitioners in this writ petition. The petitioners are, accordingly, directed to approach the Commission for redressal of their grievances and are at liberty to raise all the issues which are raised by them in this writ petition by filing necessary pleadings and documents to substantiate their claims.

The writ petition is disposed in the above terms. It is expected that the Commission do expedite the disposal of the case, preferably, within a period of two months from the date of receipt of a certified copy of this order. The parties are, however, directed to bear their respective costs."

In terms of the order aforesaid, the Commission taking up the matter for adjudication issued notice to the Parties for their appearance on the dates of Hearing fixed and relevant records from the concerned authorities were also called for. During the Hearing, the Commission heard the Learned Advocate appearing on behalf of the Petitioner and the authorised Representatives of the Respondents.

Discussion and decision.

The Learned Advocate appearing on behalf of the Petitioner while advancing his argument/submission in the Hearing referred to the Issues raised by Sri Durga Ram Deka and others in their Writ Petition filed before the Hon'ble High Court in WP (C) 3281/2009. He narrated the contents of the Writ Petition which are mentioned below:-

1. The Writ Petitioners had stated that they were the Occupancy Tenants on the basis of permanent possession (Chiro Dakhal) of a plot of land measuring an area of 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 of Nisf Khiraj Patta No.1 of No. 1 Jatia Bhangara village under Pattidarrang Mauza of Goreswar Revenue Circle under Kamrup District. It is further stated that the above plot of land was the only land belonging to them. In support of their claim over the land mentioned above, they had furnished a Certificate issued by the Circle Officer, Goreswar Revenue Circle dated 1/3/2007 stating that the said land belongs to them. They further claimed that the said land was kept by them for residential purpose and they also had plans to start a Dairy Farm in the said land. Therefore, their dreams were not fulfilled when the ASEB erected the 132 KV Transmission Tower and constructed the overhead Transmission Line in the land mentioned above.
2. The Writ Petitioners also furnished a Valuation Certificate issued by the Circle Officer, Goreswar dated 8/3/2007 whereby the valuation of the land measuring an area of 5 bighas 9 lessas was shown as Rs 8,31,976.00.
3. The Writ Petitioners submitted a prayer to the DC, Kamrup on 19/3/2007 for construction of the High Tension Line in some other place or else compensation be paid to them so that they would not be rendered homeless. In the same Letter the Petitioner No. 1 (Sri Durga Ram Deka) prayed for a job in the ASEB as he was unemployed. But the same has not been considered till date.

The Learned Advocate for the Petitioner in his submission made before the Commission informed that subsequently the Writ Petitioner No. 1 had given up his demand for getting a job under ASEB.

4. The Writ Petitioners referred to the letter of ADC, Revenue dated 16/5/2007, whereby a Cheque amounting to Rs 6,82,772/- bearing Cheque No. 364578, was issued to the SDO (Civil) Rangia with a direction for disbursement of the amount as compensation to the affected pattadars whose lands have been acquired for construction of 132 KV

Transmission Line from Rangia to Rowta. They stated that unfortunately no compensation has been paid to them till date.

5. The Writ Petitioners submitted an Application on 12/6/2007 to the DC, Kamrup (Respondent No. 5) requesting him to disburse the compensation amount of Rs 6,82,772.00 mentioned above, to them.
6. The Writ Petitioners had furnished a copy of the letter issued by the Circle Officer of Goreswar Revenue Circle (Respondent No. 8) requesting the SDO (Civil) Rangia (Respondent No. 7) to consider payment of adequate compensation to the Writ Petitioners for losing the land mentioned above, due to construction of 132 KV Transmission Line and Tower. In the said letter, the Circle Officer of Goreswar Revenue Circle also mentioned that an area of 3 kathas 16 lessas would be used for the Tower and as such no houses etc can be constructed on the remaining 3 bighas 9 lessas of land since the same will be directly under the Transmission Line. He further stated that the Writ Petitioners did not possess any land other than that mentioned above which was assessed at Rs 1,63,450.00 per bigha and accordingly the total value of 3 bighas 4 kathas and 5 lessas of land was calculated at Rs 6,29,294.00.
7. The Writ Petitioners referred to the Letter dated 28/6/2007 of the Deputy General Manager (Respondent No. 3) seeking information from the Senior Manager, AEGCL (Respondent No. 4) whether any payment of compensation was made to the land owners i.e. the Writ Petitioners and whether any commitment for offering job on compassionate grounds was made to the land owners before construction of the High Tension Line. The Senior Manager, AEGCL in his Letter dated 20/7/2007 addressed to the Deputy General Manager, AEGCL, replied that an amount of Rs 6,82,772.00 lakh had already been deposited by the Resident Engineer, 132 KV Grid Sub-Station, Rangia, to DC, Kamrup for payment of compensation to the affected pattadars against acquisition of the land for construction of the 132 KV Transmission Line from Rangia to Rowta. He also informed the Deputy General Manager, AEGCL, that the newly constructed 132 KV Transmission Line mentioned above would pass over the land belonging to the Petitioners and that the whole land would be utilized as a free corridor. As such, the land on either side will be unfit for habitation. Therefore, the Writ Petitioners claimed that they were entitled to compensation for the whole area of land measuring measuring 5 bighas 9 lessas.
8. The Writ Petitioners had submitted two Representations the first one to the Managing Director, AEGCL and the second one to the Chairman, ASEB for payment of compensation in respect of the land mentioned above but no action has been taken by them till now.
9. The Writ Petitioners had referred to the provision laid down under Section 11A of the Land Acquisition Act, 1894 wherein it is provided that in case of failure to pay compensation within a period of two years from the date of publication of the Declaration that a particular plot of land is required for public purpose, then in that case the entire proceedings of the land in question shall lapse. According to the Writ Petitioners, in the instant case the land belonging to them was acquired by the Respondent authorities in 2006 and as such, the entire proceedings for acquisition of the said land has lapsed and the Respondent authorities are simply encroachers of the land belonging to the Writ Petitioners and they are liable to be evicted

from the said land along with their Towers and other equipments etc. Furthermore, the Respondent authorities would be liable to pay rent for using the land of the Writ Petitioners for the last three years. Moreover, the Writ Petitioners had also cited the provision laid down under Section 23 of the Land Acquisition Act, 1894, which lays down the factors to be considered for determination of compensation and in case of delay, there is a provision for granting interest also. Again under Section 23 (2) of the Act also provides that in case of compulsory nature of acquisition, the award shall be thirty per centum of the market value of the land which is in addition to the market value of the land.

The Learned Advocate for the Petitioner also referred to the issues raised in the Affidavit-in-Opposition filed by the Writ Petitioners against the Affidavit filed by Sri B. B. Deb Choudhury, ADC, Kamrup before the Hon'ble Gauhati High Court on behalf of DC, Kamrup and others in Misc. Case No. 1869/2012 (DC Kamrup and others vs Sri Durga Ram Deka and others. The above Misc. Case was filed by DC, Kamrup and others for modification of the Orders dated 31/8/2009 and 11/5/2012 passed by the Hon'ble Gauhati High Court in WP(C) 3281/2009. In the above Order of the Hon'ble High Court, the Respondents 1 and 2 (Chairman ASEB and Managing Director, AEGCL) were directed by the Hon'ble High Court to make payment of to the Writ Petitioners the amount of Rs 6,82,772/- which was released by the Deputy General Manager to the DC, Kamrup.

In the Affidavit-in-opposition submitted by the Writ Petitioners against the Affidavit filed by the ADC, Kamrup in Misc. Case No. 1869/2012, they have denied the statements made by the ADC, Kamrup in the Affidavit. They asserted that they were Occupancy Tenants of the land measuring 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 of Nisf Khiraj Patta No. 1 of Jatia Bhangara Revenue village under Pattidarang Mauza of Goreswar Revenue Circle. Since the said land was under Nisf Khiraj Patta or Half Revenue Estate, therefore they enjoyed permanent occupation or Chiro Dakhal over the land. He further stated that under Section 5A of the Land Acquisition Act, 1894, notice should be served to the interested persons informing them about the intention of the Government for acquisition of a plot of land and calling upon them to file objections if any, regarding the acquisition of the said land. In the present instance since they were Occupancy Tenants with permanent occupation of the land mentioned above, they were the interested persons with regard to the land mentioned above. In spite of this, they were not served any Notice by DC, Kamrup under the above provision of the Act. Therefore, without their knowledge the land mentioned above was acquired by the Government for erection of 132 KV Tower and Transmission Line in the said land. They have admitted of receiving Jirat value of Rs 2,66,511/- paid to them, but they have not yet been paid the Land compensation for the whole area of 5 bighas 9 lessas which has been utilized by the ASEB for the purpose mentioned above.

The Learned Advocate for the Petitioner also cited the following decisions wherein the Hon'ble Courts had held that in case of tenanted lands, the apportionment of compensation in respect of acquired lands should be made in such a manner that the permanent tenants gets a portion of the compensation amount:-

1. The Judgement passed by the Hon'ble Supreme Court of India in Civil Appeal No. 1077 of 1978, D/-5-12-1978- Smt. Vidyawata, Appellant –vs-

The Collector of Agra, Respondent (Reported in AIR 1979 Supreme Court 733).

2. Judgement passed by the Hon'ble Bombay High Court in First Appeal Case Nos. 210 and 211 of 1972 and 858 of 1973, D/-7-9-1977 of - Kachrual Hiralal Dhoot, Appellant

–vs- the Gurudwara Board Nanded and others, Respondents (Reported in AIR 1979 Bombay 31).

3. Judgement passed by Hon'ble Gujarat High Court in First Appeal Case No. 530 and 531 of 1960 dated 5/3/1965 against decision of joint J., Ahmedabad in compensation Case No. 187 of 1958-Bai Saraswati Jeshankar and another, Appellants –vs- Agent, Bharatkhand Textile Manufacturing Co. Ltd. Ahmedabad and others, Respondents (Reported in AIR 1967 Gujarat 36 (V 54 C.9).

Shri Dipankar Deka, Assistant General Manager, AEGCL, appearing on behalf of the AEGCL in his submission made before the Commission, refuting the claim of the Learned Advocate appearing on behalf of the Petitioner stated that he had visited the area of land in question located at Jatia Bhangara village under Patidarrang Mauza of Goreswar Revenue Circle when he was posted as Resident Engineer, AEGCL, Rangia. During his visit he found that only 5 lessas of land covered by Dag No. 1196 of Jatia Bhangara village had been utilized for erection of Tower for 132 KV Transmission Line. This conforms with the records available with AEGCL. Therefore, except for the 5 lessas of land mentioned above, it is not true that a total area of 5 bighas 9 lessas of land covered by Dag Nos. 1196, 1197 and 1198 of the above village, has been acquired for construction of 132 KV Tower and Transmission Line as stated by the Learned Advocate for the Petitioner. He further stated that during his visit to the site mentioned above, he found that the whole land measuring 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 No.1 of Jatia Bhangara village, was agricultural land and there were no houses or trees in the said land. According to Sri Deka, even though the above land would be used as a free corridor for the 132 KV overhead Transmission Line, the land can be used for cultivation purpose without any hindrance.

Shri Hemanta Bharali, Administrative Officer, Office of DC, Kamrup, representing DC, Kamrup, made the following submission :-

- (a) A Land Acquisition Case namely LA Case No. 18/2007 was instituted in the Office of DC, Kamrup, in connection with acquisition of land for erection of Transmission Tower Footing for 132 KV Transmission Line from Rangia via Sipajhar to Rowta. In connection with the above LA Case, an area of land measuring 5 lessas out of a total area of 1 bighas 3 kathas 4 lessas covered by Dag No. 1196 of Nisf Khiraj Patta No. 1 of Jatia Bhangara village under Patidarrang Mauza of Goreswar Revenue Circle, was acquired by the Government for the purpose of construction of Tower for 132 KV Transmission Line. As per the Land Revenue records, the names of the Pattadars of the land mentioned above are (1) Sri Amar Nath Sarma (2) Sri Balai Nath Sarma and (3) Shri Durga Nath Sarma all sons of Late Hara Nath Sarma. The names of the Petitioners namely Shri Durga Ram Deka, Shri Prafulla Deka both sons of Late Dehram Deka and Smt. Befula Deka w/o Late Dehram Deka, have been entered as Recorded Tenants in the Land Records and not as Pattadars of the said land.

- (b) In connection with LA Case No. 18/2007, the ADC, Kamrup vide his Letter No. KRA 14/2005/19/23 dated 28/9/2006 addressed to the Resident Engineer, 132 KV Rangia Grid Sub-Station, sent an LA Estimate amounting to Rs 6,82,772/- as acquisition cost for construction of 132 KV Transmission Line from Rangia to Rowta in different locations covering Rangia, Kamalpur and Goreswar Revenue Circles including the 5 lessas of land covered by Dag No. 1196 of Jatia Bhangara village mentioned above.
- (c) On receipt of the above LA Estimate, the Resident Engineer, 132 KV Rangia Grid Sub-Station vide his Letter No. RE/RNGS/RNG/RR-11/596 dated 27/12/2006 addressed to the DC, Kamrup, had deposited a Cheque amounting to Rs 6,82,772.00 in the Office of the DC, Kamrup for payment of compensation for acquisition of lands for construction of tower footing in the locations mentioned above.
- (d) As per Award List relating to payment of compensation for acquisition of the land mentioned above, Rs 7349.00 has already been paid to the Pattadars of the land mentioned above namely (1) Sri Amar Nath Sarma (2) Sri Balai Nath Sarma and (3) Shri Durga Nath Sarma all sons of Late Hara Nath Sarma, by the Deputy Commissioner, Kamrup, as compensation for acquisition of 5 lessas of land covered by Dag No. 1196 of Jatia Dangara village.
- (e) Shri Bharali reiterated that only 5 lessas of land covered by Dag No. 1196 of Jatia Dangara village was acquired for the purpose of erecting a Tower Footing for 132 KV Transmission Line from Rangia to Routa. No other lands falling in Dag Nos. 1196, 1197 and 1198 was acquired for the above purpose. Hence, it was not true that a total area of 5 bighas 9 lessas covered by the above Dag Nos. had been acquired by the Government for the purpose of construction of 132 KV Transmission Tower and Transmission Line as stated by the Petitioner, Shri Durga Ram Deka.

Shri Kamal Baishya, ADC, Kamrup, in his submission stated that the comment made by the Circle Officer, Goreswar Revenue Circle in his Certificate dated 1/3/2007, that the land measuring 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 of Nisf Khiraj Patta No. 1 of Jatia Bhangara Village under Patidarrang Mauza, belonged to Shri Durga Ram Deka and others is not true because according to the Land Records, they were Recorded Tenants and not Pattadars. The Pattadars of the above land were (1) Shri Amar Nath Sarma (2) Shri Balai Sarma and (3) Shri Durga Ram Sarma all sons of Late Hara Nath Sarma.

The Commission noted the relevant points raised by all the concerned Parties in their oral submissions and examined the documents on record.

In pursuance of the direction given by the Hon'ble Gauhati Court to the Commission in its Orders dated 21/11/2013 in WP (C) 3281/2009, the Commission carefully examined the issues raised by the Writ Petitioners (Shri Durga Ram Baishya and others) in their Writ Petition filed before the Hon'ble Gauhati High Court in the above WP(C) vis-a-vis the documents obtained by the Commission in connection with the above AERC Misc. Case and have made the following observations:-

The Commission observed that as per examination of the Land Records

namely Certified Copy of the Jamabandi and Chitha of the land measuring 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 of No. 1 Jatia Bhangara village under Patidarrang Mauza of Goreswar Revenue Circle, it was found that the Pattadars of the said land were (1) Sri Amar Nath Sarma (2) Sri Balai Nath Sarma and (3) Shri Durga Nath Sarma all sons of Late Hara Nath Sarma. On the other hand, as per the above Land Records, Shri Durga Ram Deka, Shri Prafulla Deka both sons of Late Dehiram Deka and Smt. Befula Deka w/o Late Dehiram Deka, were Recorded Tenants of the above land.

The Commission examined the copies of LA Papers of LA Case No. 18/2007 furnished by the Office of DC, Kamrup and found that only 5 lessas of land out of the total area of 3 bighas and 2 kathas covered by Dag No. 1196 of Jatia Bhangara village, had been acquired for the purpose of erection of 132 KV Transmission Tower. Therefore, except for the 5 lessas of land mentioned above, no record was found regarding acquisition of the total area of 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 of Jatia Bhangara Village, as claimed by the Learned Advocate for the Petitioner.

The Commission also observed after examination of the LA Estimate prepared by the Deputy Commissioner, Kamrup in connection with LA Case No. 18/2007 (furnished at Annexure I), that an amount of Rs 6,82,772.00 was estimated as cost for acquisition of lands belonging to the pattadars of different locations under Rangia, Kamalpur and Goreswar Revenue Circles, which was required for erection of the Tower footings for the 132 KV Transmission Line from Rangia via Sipahjhar to Rowta. In this connection an Award List had been prepared by the DC, Kamrup (copy furnished at Annexure II) showing the names of the pattadars of the three Revenue Circles to whom the above amount of Rs 6,82,772.00 would be disbursed after release of the fund by the Requiring Department i.e. AEGCL. On receipt of the above LA Estimate from the DC, Kamrup, the Resident Engineer, 132 KV Sub-Station, Rangia, released the amount of Rs 6,82,772.00 by Cheque to the DC, Kamrup for disbursement of the amount among the pattadars whose names had been mentioned in the above Award List. The Commission observed that neither has it been mentioned in the above LA Estimates and Award List of LA Case No. 18/2007 nor in the Letter of the Deputy General Manager, AEGCL dated 28/6/2007 and Letter of Senior Manager, AEGCL dated 20/7/2007 which have been referred to by the Writ Petitioners as well as the Learned Advocate for the Petitioner in the present AERC Misc. Case, that the above amount of Rs 6,82,772.00, was meant for payment of compensation to the Writ Petitioners against the area of land measuring 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198. The Commission noted that as per submission of Sri Hemanta Bharali, Administrative Officer, Office of DC, Kamrup, in the meantime the entire amount of Rs 6,82,772.00 has already been paid to the pattadars concerned as per procedure.

The Commission further observed that as per the Certified copy of the Jamabandi and Chitha furnished by the Office of DC, Kamrup, the land covered by Dag Nos. 1196, 1197 and 1198 of No. 1 Nisf Khiraj Patta of Jatia Bhangara Revenue village (copy furnished at Annexure IV), is of Agricultural Class (Athaletia Baotoli). From this it is clear that the above land is low lying land (of sticky soil texture) which remains submerged by water throughout the year and is fit for cultivation of Bao Paddy which is a species of Paddy cultivated in such water logged conditions.

Moreover, the Commission took note of the comments made by Shri Dipankar Deka, Assistant General Manager, AEGCL while making his submission before the Commission regarding the nature of land mentioned above. Shri Deka stated that during his incumbency as Resident Engineer, 132 KV Grid Sub-Station at Rangia, he had visited the land mentioned above after the completion of the work for construction of Transmission Tower Footing for the 132 KV Transmission Line and had found that the entire land measuring 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198, was agricultural land and there were no houses and trees standing in the same. From the above facts it is proved beyond doubt that the said land is agricultural land and not fit for habitation. Therefore, the claim by the Writ Petitioners in their Writ Petition filed in WP(C) No. 3281/2007, that the above land is homestead land, is not maintainable.

The Commission also noted the views of Sri Dipankar Deka, Assistant General Manager, AEGCL, that even though the land mentioned above would be used as an open corridor for the overhead 132 KV Transmission Line, the Petitioner's family can continue to cultivate the land without any hindrance.

The Commission also perused the Court decisions referred to by the Learned Advocate for the Petitioner more particularly the Judgement passed by the Hon'ble Supreme Court of India in Civil Appeal No. 1077 of 1978, D/-5-12-1978- Smt. Vidyawata, Appellant Vs The Collector of Agra, Respondent, on the Law laid down by the Hon'ble Supreme Court. The Hon'ble Apex Court has held that while carrying out apportionment of the total compensation in case of acquisition of lands, a portion of compensation should be paid to the permanent tenants. For this purpose the tenant's share of compensation shall have to be determined. The Commission is of the opinion that the above decision of the Hon'ble Supreme Court of India, attracts the salient points urged in the case in hand. Therefore, the Petitioner's family being the Recorded Tenants in permanent occupation of the acquired land measuring 5 lessas covered by Dag No. 1196 of Nisf Khiraj Patta No. 1 of Jatia Bhangara Revenue Village under Patidarrang Mauza, shall be treated as 'interested persons' along with the pattadars in respect of the land mentioned above. As such, the Commission hereby directs that a portion of the compensation amount which has been estimated against the acquisition of the area of 5 lessas of land mentioned above, shall be paid to the Petitioner's family. The apportionment of compensation will be determined in such a manner that the Petitioner, who is the Recorded Tenant, will get 75% of the compensation amount and the Pattadar will get 25% of the amount. This is notwithstanding the fact that the amount of compensation for the above acquired area of 5 lessas has already been paid to the pattadars of the said land. In addition to the amount mentioned above, the Petitioner's family will also be paid penal interest for delayed payment under Section 34 of the Land Acquisition Act, 1894, at the rate of 9 per centum per annum for the first year and 15 per centum beyond the period of one year, on the compensation amount to be paid to the Petitioner's family, with effect from the date of taking over possession of the land mentioned above till the date of institution of the Gauhati High Court Case No. WP(C) 3281/2009. The Deputy Commissioner, Kamrup and Managing Director, AEGCL, will take necessary action for compliance of the above direction.

The Commission has further dismissed the claim made by the Petitioner for payment of compensation for the entire area of 5 bighas 9 lessas covered by Dag Nos. 1196, 1197 and 1198 of Nisf Khiraj Patta No. 1 of No. 1 Jatia

Bhangara village because except for the 5 lessas of land covered by Dag No. 1196, the balance area of land measuring 5 bighas 4 lessas lessas covered by Dag Nos. 1196, 1197 and 1198, has not been acquired by the Government.

With the above observations and directions, in compliance with the Order passed by the Hon'ble High Court, the AERC Miscellaneous Case No. 17/2013, is accordingly disposed of.

Inform all concerned accordingly.

Sd/-
D. Chakravarty
Member, AERC

Sd/-
Dr. R.K. Gogoi
Member, AERC

Sd/-
N.K. Das
Chairperson, AERC