

IN THE COURT OF SHRI VANLALMAWIA, ADDL. DISTRICT JUDGE- I,

AIZAWL

L.A 30/2014

- 1.Rothanga
- 2.Vanlalhruaia
- 3.C.Raltawna
- 4.Rohmingthangi
- 5.C.Lalchhanhima
- 6.Lalkhawngaiha
- 7.Lalnunmawia
- 8.Krosmawii
- 9.Lalbeli
- 10.Chhumi
- 11.Biakmawia
- 12.Lalngkhakliani
- 13.Lalrinchhana
- 14.Lalhriatpuia
- 15.Lalngaihdama
- 16.H.Chanchinmawia
- 17.Lalruala
- 18.Laltlankima
- 19.Lalremmawia
- 20.Lalthankimi
- 21.Ngurliansangi
- 22.Ramlia
- 23.Keimahthanga
- 24.Bawihkunga
- 25.L.Ringzuali
- 26.R.Lalbiakhluni
- 27.Lalmuankima
- 28.Lalzarmawia
- 29.Lalzarliana
- 30.Lalmangaihzuala
- 31.Lalawmpuia
- 32.C.Zahlira
- 33.Autea
- 34.H.D.Vanlalaiva
- 35.Lallawmawmi

36.Selzikpuii
37.Lahlunchhungi
38.Hruaia
39.Vanlalhruaia
40.Vanlaldika
41.Ruatkima
42.Ruatkima
43.Ruatkima
44.Lalmangaihzuala
45.Lalmangaihzuala
46.M.Darthangpuii
47.Hmangaihi
48.Zathuamluui
49.Vanrammawii
49(a) R.Vanrammawii
50.R.Hriata
51.Vanlalhriata
51.Lalhriata
52.Zothanzami
53.Lalramhliri
54.Vanlalkima
55.Lawmkima
56.R.Vanrammawii
57.Vanlalngheta
58.Lalzahawma
59.Lalhriatpuia Ngente
60.Thanhkira
61.Lalnunmawia Ngente
62.Hmingthanzauvi
63.Feli
64.Zolianpuii
65.Vanlalzuala
66.Lalngaihsaka
67. Lalmudika
68.Lalmangaiha
69.Lalrintluanga
70.Laltlanhlua
71.Lalmangaiha
72.K.Thanchungnunga
73.Lalrimawia

- 74.Vanlalfinga
- 75.Lalramngaia
- 76.Lalthanliana
- 77.Engthangpuii (Maengi)
- 78.Lalhmachhuana
- 79.Hmangaihtluanga
- 80.Thazuali
- 81.Lalnghengi
- 82.Ramfangzauvi
- 83.Saihlira
- 84.Lalfakzuala
- 85.Lianngura
- 86.Engkima
- 87.Lalhmachhuani
- 88.H.Malsawma
- 89.Rochhari
- 90.Vanlalduha
- 91.Rosangkima
- 92.Liansawta
- 93.Zothansiamama
- 94.Loe Zothansiamama
- 95.R.K.Kapthanga
- 96.Lalrinmawia
- 97.H.S.Thanglawta
- 98.Lalthankima
- 99.Vanlalliana
- 100.Lalthuampuii
- 101.Vanlalthmuaki
- 102.Lalfakmawia
- 103.Lalrinnunga
- 104.Lalthazuala
- 105.Lalrinmawia
- 106.Lalhmingmawia
- 107.Joel Lalnunfela
- 108.Lalramzauva
- 109.Lalmuanpuia
- 110.Lalhmingmawia
- 111.Nathan
- 112.Ura Lalawmpuia
- 113.Lalmalsawma

114.Lalhuliana
115.Lalremsiama
116.Lalhmingmawia
117.Benjamin
118.Lalrinfela
119.D.Thangchuailova
119.Thangchuailova
120.John Lalthlamuana
121.Lalramliana
122.Lalrinzauvi
123.Thakimi
124.Lalhmgangaihzualla
125.Thandanga
125.Thandanga
126.Chalnguri
127.Lalhrualtuangi
128.Zohmingthangi
129.Dawrchoram
130.Lalvulluaia
131.H.Lalnunmawia
131.Lalnunmawia
132.Zoremawia
133.Lalnuntluangi
134.Lalrochhari
135.C.Lalhmingliana
136.Thanthuami
137.H.Lalthanmawia
138.H.Hmingthanfela
139.Lalmawizuali
140.Zothankima
141.Vanlalthanga
142.Kawldingliani
143.Zoremthuangi
144.Lalruatpuia
145.Lalremsanga
146.Hluna
147.Khetrojoi
147.Khetrojoi
148.C.Lalpari
149.Lalchhanhima

150.Vanhnuaithanga
151.J.Ngaihdamsanga
152.K.Lalthianghlimi
153.Lalrinsanga
154.Zodinthari
155.Lalmangaihzuala
156.Lalsangluaia
157.H.D.Pachhunga
158.H.D.Lallawmzuala
159.H.D.Lalduhawma
160.H.D.Malsawmkima
161.Darremsang
162.Lalparliana
163.Lalremfela
164.Vanneihtluanga
165.Darrothuanga
166.Lalsiamliana
167.Darthantluanga
168.Lalbiaksang
169.Zonuntluang
170.Liankhuma
171.Vanrampanmeka
172.Lalremsiama
173.H.D.Lalchungnunga
174.Lalthafala
175.A.Zohmangaiha
176.Lalbuatsaiha
177.Hmangaihzuala
178.Laltawngchhana
179.Lalngaihawma
180.Lalhmingthanga
181.H.Vanlalsiama
181.H.Vanlalsiama
182.R.Lalramchhana
183.Lalsangpuia
184.Liansangkima
185.Linda Lalchawimawii
186.Lalrinkimi
187.Lalringngheti
188.Sanghnuni

- 189.Sawmdawnga
- 190.Hmangaihzuala
- 191.Lalkima
- 192.Laltinkhuma
- 193.Lalrorela
- 194.Lalchhanhima
- 195.Laltanpuii
- 196.Lalthianghlimi
- 197.Laldingliana
- 198.R.Kapthanga
- 199.Malsawmtluanga
- 200.Rosangzuala
- 201.Lalnunkimi
- 202.Lalchualovi
- 203.Lalngaihsaki
- 204.H.Lalrindika
- 205.Lalbiaktluangi
- 206.R.Lalmangaiha
- 207.Ringzuala
- 208.Laldingliana
- 209.Lalfakzauva
- 210.Vanlalchaka
- 211.Lalthafamkima
- 212.Lalhriatpuii
- 213.R.Lalchungnunga
- 214.Chawngghmingthanga
- 215.Chuhi
- 216.Lalrosanga
- 217.Lalpianmawia
- 218.Lalawmpuia
- 218.Lalawmpuia
- 219.Lalthlamuana
- 220.Lalpianmawia
- 221.Lalthatluangi
- 222.V.L.Peki
- 223.Laldinsanga
- 224.Lalthangmawia
- 225.Vanlallura
- 226.Lalrinsanga
- 227.Vanlalkima

228.Tosirung
229.Lalchualovi
230.Rohlupuii
231.F.Thangluaia
232.Lalthafela
233.Lalnuntluanga
234.Lalchhantluangi
235.Ruatsanga
236.Vanlalhruaia
237.Ngentluanga
238.Lallawmkima
239.K.Lalrinawma
240.Lallawmi
241.K.Lalpianmawia
242.K.Buangthanga
243.Malsawma
244.Vanlalfela
245.Dinsanga
246.K.Lalhminghlua
247.K.Lalthianghlimi
248.K.Lalromawia
249.Ronald Lalramthanga
250.Lalthannguri
251.Lalmuanawmi
252.Lalramliana
253.Zonghaki
254.Lalhmangaihsanga
255.Elisiamawii
256.Lalngaihawma
257.Lalbuatsaihi
258.H.Lalremruata
259.Rinmawii
260.Lalhluna
261.Zopara
262.Lalmuankimi
263.Vanlalhriati
264.Lianzuali
265.Thazuali
266.Rohmingthanga
267.Lalbiakfeli

268.H.C.Lalhmingthanga

269.T.H.Thanga

270.Vanlalliana

271.Laldingpuii

272.Rochungnunga

273.Lalngilneia

274.Nobiram

275.T.H.Thanga

276.Mankunga Plaintiff

Versus

1. District Collector, Kolasib District, Kolasib.

2. Nothern Front Railway represented by Deputy
Chief Engineer CON/III/SCL, Silchar Respondent

BEFORE

Shri.Vanlalmawia
Addl.District Judge-I
Aizawl Judicial District, Aizawl

PRESENT

For the Claimants : Mr.Haulianthanga, Advocate & Ors

For the Respondent No.1 : Mrs Rose Mary Addl.GA

For the Respondent No.2 : Mr.A.Hussain Advocate.

Date of Hearing : 30.1.2015

Date of Order : 5.2.2015.

JUDGMENT & AWARD

1. The reference petition is filed by Rothanga and 285 others u/s 18 of the Land Acquisition 1894 against the Award No 1 of 2012 (Part C-Hortoki passed by the Deputy Commissioner/District Collector, Kolasib District, Kolasib, the matter was referred to this court for adjudication, and registered as LA Case No 30/2014, in connection with the construction of N.F Railway Bairabi – Sairang.

2.The claimants in this reference petition are land owners from Hortoki village. The land of the claimants are acquired for public purpose i.e for construction of railway line from Sairang to Sihhmui. The project is undertaken by the NF Railway. The compensation payable to persons whose lands are damaged

by the said project was assessed by the District Collector and Award No. 1 of 2012(Part C-Hortoki) was passed. In the said Award the claimants were given compensation for their crops, fish pond, buildings etc within the acquired lands. But no market value was given for the land because their lands were covered by Periodic Pattas and Village Council Passes whereas for lands covered by Land Settlement Certificate(LSC) market value of the lands were fixed at the rate of Rs.25/per sq.feet

3. Being aggrieved on 21.2.2013 the claimants submitted application to the District Collector of Kolasib with a prayer to give them the market value of their land at par with lands covered by settlement certificate.

I have heard the Id. Counsels.

4. Mr. Haulianthanga Ld. Counsel for the claimants submitted that the claimants are owners of land whose lands were damaged by the proposed construction of railway tracks. They are covered by Award No.1 of 2012(Part C-Hortoki) They have been paid compensation only for crops, trees, fish pond building etc and not for the land only because they possess Periodic Patta/Village Council Passes for their lands. He submitted that payment of market value in respect of lands covered by Periodic Patta is a settled position now. Even in respect of Village Council Passes the Ld. Counsel submitted that such Passes are issued by the competent authority and the rights enjoyed by the owners are no less than the rights of land settlement certificate holder. Further, if compensation is paid for crops, trees, buildings etc there is no reason why they should not be paid for the land upon which they stand. He also submitted that in Award No.1 of 2012 in respect of VC Pass No. 5 of 1981 at Khawhlailung the Govt. of Mizoram, amongst others, have paid rental charges, and thereby meaning that they recognize the title of the VC Pass holder. Further, Village Council Pass holders covered by the same acquisition i.e. railway line have been paid market value in villages like Khamrang, Mualkhang and other claimants in Hortoki in compliance of Award made by the Court. The Ld. Counsel submitted that the question of delay does not arise because notice u/s 12(2) LA Act was not issued, copy of the Award was not made known to any of the claimants, their representatives were not present at the time of pronouncement of the Award. In fact, it is only through verbal information they came to know that they were not paid market value. The Award bears the date 13.9.2012. In the absence of any Notice u/s 12(2) LA Act there is no reason why the claimants shall not get the benefit of 6 months u/s 18(2) LA Act. The application of the claimants bears the office seal of the Respondent No.1 which is dated 21.2.2013. As such, the application is well within 6 months from the date of the Award even if the date of the Award is taken as 13.9.2012. The Ld. Counsel submitted that the claimants are 'interested persons' within the meaning of LA Act

, that they have been looking after their lands for a number of years and as they are cultivators they have been deprived of their only source of livelihood due to the acquisition. Replying on the objection filed by the respondents particularly respondents no.1, the Id. Counsel submitted that none of the claimants have made double claim except Khatrojoi, Lalfakzauva, T.H.Thanga, Lalngilneia and Nobiram. In respect of the said names the Ld. Counsel submitted that they will forfeit the claim made by the said persons in this case. The Id.counsel submitted that they are satisfied with the market value fixed by the District Collector in respect of land settlement certificate holders which is Rs.25/-per sq.feet and that they are not claiming for a higher rate of market value. The Ld. Counsel also submitted that once market value is granted to the claimants, as per the Land Acquisition Act, it is the right of the claimants to get solatium @ 30% and 12%per annum as per sections 23(1A) and 23(2) of the Land Acquisition Act. The Ld. Counsel have submitted the following judgments t support his submissions :-

1. State of Mizoram versus Lalbiakthanga (2 judgments)
2. Judgment& Orders in LA cases No.4/2013, 5/2013, 9/2013, 10/2013, 11/2013, 13/2013, 18/2013, 19/2013, 37/2013 and 44/2013.
3. Power Grid Corporation versus Kawlbuia
4. Letter No. J.17015/5/04-DC(SRCP) dt. 17.8.2012(where rental charge was given for land under VC Pass).
5. Judgment & Award dt.27.6.2014 in LA Case No. 24/2013.

5.Mrs. Rose Mary Ld. Addl. GA appearing for respondents no.1 relying on the objection filed submitted that the applicants are fully aware of the existence of Award No.1 of 2012(Part-C-Hortoki) and that they submitted applications u/s18 LA Act on different dates and the same were referred to the District Judge, Aizawl for adjudication. The said claims were registered as LA Cases No. 4/2013, 5/2013, 9/2013, 10/2013, 11/2013, 13/2013, 18/2013, 19/2013, 37/2013 and 44/2013. The said cases are already disposed off by awarding the claim of the applicants and they have withdrawn their claim for payment of market value which they are now claiming again. The present application is barred by time and it cannot be condoned and thus pray the court not to consider the claim of the petitioners.

6.Similarly, Mr.A Hussain Ld. Counsel for respondent No.2 relying on their written objection submitted that the Award passed by the District Collector was complied and that money as per the assessment was deposited to the District Collector and disbursed to the beneficiaries. The application is barred by time and moreover the details of the assessment will be gathered from the objection of the District Collector which will be filed by him as per section 19 of the Land Acquisition Act. That the lands to be acquired were classified into three categories i.e LSC, Periodic Patta and Village Council Passes by the District Collector before

making the Award, the claimants are now stopped from raising any objection at this stage and thus pray to reject the application.

7.The issues framed in this case were -

1)Whether the application is maintainable in its present form and style?

(ii) Whether the petitioners being owners of land covered by Periodic Patta/VC Pass are entitled to market value of their land ? If so,

(iii) What rate of market value should be given to them?

8.Before deciding on the issues, it may be mentioned that the claimant examined one witness. PW Rothanga amongst others stated that they have not made any claimed for market value of their lands and that none of them have withdrawn their earlier claimed. He also stated that they are the owners of the lands acquired by the project and that if the same is taken away from them their source of livelihood will be taken away. He also stated that they were given passes by the Village Councils who were competent to issue such passes and that other Village Council pass and Periodic Patta holders in other villages such as Khamrang and Mualkhang were paid Compensation for the same acquisition. He also stated that they are satisfied with the market value fixed by the District Collector, Kolasib i.e. Rs.25 per sq.ft and also makes a claimed for payment of solatium and interest. The witness was cross examined and stated that It is also correct to suggest that all the applicants had already received solatium and interest in our case.

9. the Defendant examined one witness Mr. Zoramsiama Hmar, SDC, also acting as A.S.O, who was posted from 15th January 2014 at D.C Office, Kolasib the Defendant No.1 stated that during the time of Reference made by D.C Kolasib Rothanga & others L.A Case 4/2013, 5/2013, 9/2013, 10/201311/2013, 13/2013, 18/2013, 19.2013, 37/2013 and 44/2013 and they were awarded the claims by the District Judge, Aizawl. In the earlier applications Rothanga & ors only claim for solatium and interest and the same was awarded to them by the court. However, a new reference application was applied by Rothanga & Ors in the same case claiming for market value and the same was issued by Sub-Divisional Officer(Sadar) Kolasib, District. While D.C was on leave.

However, N.F Railways acquiring authority and if they have nothing to say regarding the instant case, I cannot say anything more than what I have deposed from our behalf i.e D.C Kolasib.

Cross examination by the counsel for the applicant.

It is a fact that all the cases which were mentioned in my deposition are based on our official records.

It is a fact that the Award was pronounced by the District Collector on 13.09.2002.

It is a fact that the claimants as well as the present applicants were not present at the time of pronouncement of the Award nor there is no any record to show that the applicants/claimants are present at the time of pronouncement of the Award as shown to me in the case record.

It is a fact that the present application was received on 21.2.2013 by the D.C, Kolasib.

It is not a fact that there is no double claim.

It is a fact that I do not know whether the land value was paid in the area of Khamrang those who are having Village Council Passess.

It is a fact that I do not know personally the factual position of the case.

It is not a fact that I am deposing falsely before the court today.

10. the Deputy Commissioner, Kolasib also sent his comment on the matter vide his letter no.F.15012/11/2014 NFR(c)DC(K) dt.28.1.2015 stating that the applicants are fully aware of the Award No.1/2012(Part B-Hortoki) dt.24.9.12 and they submitted an application u/s 18 of LA Act to District Collector on different dates and the same has been referred to the District Judge for adjudication and the case was registered as LA Case No.4/2013, 5/2013, 9/2013, 10/2013, 13/2013, 18/2013, 19/2013, 37/2013, 44/2013 and the Hon'ble Court of District Judge disposed off the case by awarding the claim to the applicants. Now, this new reference application may not be entertained by the court U/S 18 of LA Act since reference is already barred by limitation under the said act.

The District Collector has no power to condone delay and referring application u/s 18 for adjudication by the court does not mean condoning the said delay.

Even though they applied for land value in this petition they had withdrawn the said claim and hence the reference court did not consider as prayed by petitioners in L.A Case No.4/2013, 5/2013, 9/2013, 10/2013, 13/2013, 18/2013, 19/2013, 37/2013, 44/2013.

As mentioned above, the Collector has no power to condone delay but if the N.F Railway have no issue in paying the amount/claim, as asked by the claimants, the District Collector Kolasib has no issue.

FINDING & REASON ON THE ISSUES

11. Whether the application is maintainable in its present form and style?

In this regard, the seal of the DC Office on the application of the petitioners bears the date 21.2.2013. The Award No.1 of 2012(Part-C-Hortoki) bears the date 13.9.2012. From the documents enclosed by the office of the District Collector while making reference to court for adjudication, there is no material to show that the applicants were present at the time of pronouncement of the Award. Notice as provided u/s 12(2) of the LA Act is also not seen from the record. As per record, the reference application u/s 18 LA Act was received by the office of the District Collector vide receipt No.2199.

In the case of *Premji Nathu versus State of Gujarat and another* reported in (2012) 5SCC 250 the honb'le Supreme Court has held as follows:-

The reason for providing six months from the date of the award for making an application seeking reference, where the applicant did not receive a notice u/s 12(2) of the Act, while providing only six weeks from the date of receipt of notice under section 12(2) of the Act for making an application for reference where the applicant received a notice under Section 12(2) of the Act is obvious. When a notice under Section 12(2) of the Act is received, the landowner or person interested is made aware of all relevant particulars of the award which enables him to decide whether he seek reference or not. On the other hand, if he only comes to know that an award has been made, he would require further time to make enquiries or secure copies so that he can ascertain the relevant particulars of the award.

What needs to be emphasized is that along with the notice issued under Section 12(2) of the Act, the landowner who is not present or is not represented before the Collector at the time of making of award should be supplied with a copy thereof so that he may effectively exercise his right under Section 18(1) to seek reference to the Court."

12.Since there is no material to show that Notice u/s 12(2) LA Act was issued nor any material to suggest that the applicant or his representative were present at the time of pronouncement of the Award , considering the scheme of the Act, I do not find any reason why the provision of sec. 18 (2)(b) LA Act cannot be used for the applicant 21.2.2013 i.e date of application is within 6

months from 13.9.2012 i.e date on which the Award was signed. Therefore the application is filed within time, duly forwarded by the competent authority as application u/s 18 LA Act to the court for adjudication.

Under this issue it will also be proper to decide the objection raised that the petitioners have already submitted different applications u/s 18 LA Act and such cases have been adjudicated and Awards passed and that the petitioners in such cases have withdrawn their claim for payment of market value.

In this connection, Mr.Haulianthanga Ld. Counsel for the Claimants submitted that none of the applicants except Khatrojoi, Lalfakzauva, T.H.Thanga, Lalngilneia and Nobiram have made such double claim or forfeiture. No claim has ever been made by them for payment of market value and none of them have ever forfeited their claim for market value. To make his submissions clearer, the Judgment & Award of all the cases referred were submitted by him to the court. I have carefully gone through the said judgments more particularly on the names of the claimants. Moreover, the District Collector have not adduced any evidence regarding their contention of double claim or forfeiture. As such, I am convinced that the submission of the Ld. Counsel for the claimants is correct and accept that the claimants have not made double claim or have earlier forfeited their claims for payment of market value of their lands except Khatrojoi, Lalfakzauva, T.H.Thanga, Lalngilneia and Nobiram This judgment will not apply for the said persons. Even otherwise, considering the fact the Land Acquisition Act itself is a welfare legislation and that being so in many cases where the complaints filed by land owners are not treated as application u/s 18 of the LA Act or acted upon by the District Collector, the honbl'e Gauhati High Court has directed that the same shall be treated as application u/s 18 LA Act .

13.Issues No. (ii) & (iii) _Whether the petitioners being owners of land covered by Periodic Patta/VC Pass are entitled to market value of their land ? If so, and (iii) What rate of market value should be given to them? Are taken up together.

In this case, it is not in dispute that the claimants own land within the acquired lands. Recognizing their ownership, they have been duly compensated for the crops, trees, buildings, fish pond etc. within the said land. Further, in the instant case objection has not been raised regarding title of the Claimants over the said lands. The applicants have been looking after their respective lands for a number of years. In the instant case applicants namely Mankunga and Rochungnunga own Periodic Patta.

With regard to payment of market value of land in respect of periodic patta holder, the honb'le Gauhati High Court vide its Judgment & Order dt. 18.11.2011 in the case of State of Mizoram versus Lalbiakthanga has held as follows:-

Under Section 8 of the Mizo District(Land and Revenue) Act, 1956, settlement holder has been defined in Section 2(8). As per the said definition, “settlement holder” means any person other than a pass holder, who has enetered into an engagement with the District Council to pay land revenue and is deemed to have acquired the status of settlement holder under Section 7 of the said Act. Section 7 of the said Act provides that the settlement holder shall have heritable and transferable right of use on or of sub-letting in his land subject to 2(two) conditions, namely:

“(1) payment of all revenue and taxes from time to time legally assessed or imposed in respect of the land, and

(2) such terms and conditions as are expereesed in his settlement lease and the rules made thereunder”.

14. In the present case the respoendent is holding a Periodic Patta since 1976 continuously till the acquisition of the land. Therefore, the contention advanced by the appellant that the respondent being a Periodic Patta holder is not entitled to any compensation is without any substance and is hereby rejected. In any case, the crucial expression appearing in Section 18 of the Act as “person interested”. Any “person interested” is defined in Section 3(b) of the Act. As per the said definition, the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under the Act and a person shall be deemed to be interested in land if he is interested in an easement affecting the land.”

The said decision of the honb'le Gauhati High Court was challenged before the honb'le Apex Court which was registered as Civil Appeal No.2731 of 2012. However, vide Order Dt.19.2.2013 the honb'le Apex Court as held “ During the course of hearing, learned counsel for the parties agreed that the impugned judgment may be modified and the rate of compensation determined by the Reference Court, as affirmed by the High Court, may be modified from Rs.40/- per square feet to Rs.38/-per square feet.

In view of the statement made by learned Counsel, this appeal is disposed of in the following terms.....”.

15. Similarly, in the case of Power Grid Corporation of India versus Kawlbuai, Civil Appeal No.(s) 8792/2013 the honble Supreme Court has passed the following Order:-

‘For the reasons stated supra, we do not find any good reason, whatsoever, to interfere with the findings and reasons recorded by the High Court. The Reference Court is directed to dispose of the matter as expeditiously as possible but not later than six months’

As such, the right of Periodic Patta holders to get value of their land has now become a settled position.

16. Recognizing the rights and title of the claimants over the said lands, as per Award No.1 of 2012(Part C Hortoki) they have been compensated for crops/trees/buildings/fish pond etc. Section 3(a) of the Land Acquisition Act defines land as – *“the expression ‘land’ includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth”*. Considering the fact that the petitioners in the instant case has been granted compensation for crops and houses and keeping in mind the definition of ‘land’ as stated above as well as the definition of ‘person interested’ u/s 3(b) of the Land Acquisition Act, there is no reason why the petitioners cannot be regarded as ‘persons interested’ within the meaning of the Act.

17. In the case of **Special Land Acquisition & Rehabilitation Officer, Sagar versus M.S.Seshagiri Rao & Anr(supra)** wherein the government of Mysore granted a plot of land to the respondents with the added condition that “in the event of the Government requiring the land for any reason whatsoever, the grantee shall surrender the land to the Government without claiming any compensation”. The Government acquired the land by adopting the procedures prescribed by the Land Acquisition Act but no compensation was awarded to the grantees for the land. The High Court, in appeal held that since the government failed to exercise the right which it had under the terms of the grant and had acted under the Land Acquisition Act, the grantees were entitled to compensation as provided under the Act. In appeal before the honb’le Apex Court, it has been held that after obtaining possession of the land in pursuance of statutory authority under section 17 of the Land Acquisition Act, the Government could not seek to exercise the option conferred by the terms of the grant. The grantees were entitled to compensation for the land of which the ownership was vested in them. But in assessing compensation payable to the grantees, existence of condition which severely restricted their right could not be ignored. The Act is silent as to the acquisition of partial interests in land but it cannot be inferred therefrom that interest in land is restricted because of the existence of rights of the State in the land

cannot be acquired. When land is notified for acquisition for a public purpose and the State has no interest therein, the market value of the land must be determined and apportioned amongst the persons entitled to the land. Where the interest of the owner is clogged by the right of the State, the compensation payable is only the market value of that interest, subject to the clog.

18. In the case at hand, there is no clause in the Pass possessed by the claimants severely restricting their rights nor is there any objection from the Government that the applicants are not owners of land under acquisition. In fact, a close reading of the interpretation of “person interested” u/s 3(b) of LA Act does not even demand that the person interested should have title over the land. The evidence adduced by the claimants that they have been looking after their respective lands for a number of years have not been rebutted. As mentioned earlier, due to the acquisition, the claimants are losing their source of livelihood.

19. The submission of the Ld. Counsel for the claimants market value awarded by the Courts have been satisfied and one example being Judgment & Order dt. 27.6.2014 in LA Case No.24/2013 land value @ Rs.25 per sq. feet were awarded to Periodic Patta and Village Council Passes and that the Award have been satisfied by the Respondent No.2, under the same project, have not been denied or rebutted by any of the respondents. Further, payment of rental charge in Award No.1 of 2012 for VC Pass No. 5/1981 at Khawla lung by the State Government would indicate that the same was done recognizing the right and title of village council pass owner over the said land because no rent would be paid to any person who is not the owner.

Considering the scheme of the Act, the intention of the legislature, the status of the applicants with reference to the land under acquisition, the decisions of the honb’le Gauhati High Court and the honb’le Apex Court, there is no reason to deny market value to the applicants only because they possess a Village Council Pass.

20. Accordingly, there is no reason to deprive market value of their respective lands to the applicants who are owners of land under Periodic Patta and Village Council Passes. The present applicants are satisfied with the rate fixed by the District Collector in respect of LSC as per Award 1 of 2012 (Part C-Hortoki). The market value was fixed by the District Collector as Rs.25 per sq. feet. As the claimants do not claim for a higher rate of market value, there is no justifiable reasons why the same should not be given to them. As such, the claimants shall be paid market value of their lands at the rate of Rs.25/- per sq. feet.

21. Ld. Counsel for the claimants have also prayed for payment of solatium @ 30% and 12 % per annum u/s 23(1A) and 23(2) Land Acquisition Act.

Once the market value is granted, payment of solatium and interest u/s 23(1A) and 23(2) LA Act follows automatically and they are mandatory in nature.

The honb'le apex court in the case of **Narain Das(since deceased) versus Agra Nagar Mahapalika, Agra** reported in **1991 SCR(1)389** has held that *the importance of the award of solatium cannot be undermined by any procedural blockades. It follows automatically the market value of the land acquired, as a shadow would to a man. It springs up spontaneously as a part of the statutory growth on the determination and emergence of market value of the land acquired. It follows as a matter of course without any impediment. That it falls to be awarded by the Court "in every case" leaves no discretion with the court in not awarding it in some cases and awarding in others. Since the award of solatium is in consideration of the compulsory nature of acquisition, it is a hanging mandate for the court to award and supply the omission at any stage where the court gets occasion to amend or rectify. This is the spirit of the provision, wherever made.*

22. Mr. A.Hussain, Id. counsel for Respondent No.2(N.F.Railway) submitted during the hearing that they have no any other defence witness to be produced in the court, and no further hearing is found necessary. Mr.Haulianthanga Id counsel for the petitioner submitted the detail assessment of compensation, which was found tally and same amount with the assessment of compensation made by deputy Commissioner/Collector Kolasib and N.F Railway in the present of Mr.A.Hussain, Id counsel for Respondent No.,2(N.F.Railway) to which the Id counsel for Respondent No.2, raise no objection after scrutinising the assessment, and compensation to be awarded to the 276 claimant amounting to Rs.23,59,38,617.99 (Rupees twenty three crores, fifty nine lakhs, thirty eight thousand six hundred seventeen)

23. For the reason stated above, I am in the opinion of that Respondent had raised no objection in their ownership of lands belongs to the claimants by giving crop damaged compensation to the said claimant, and find no ground to deprive the petitioner/claimants who possesses Village Council Passess and District council Pass for payment of compensation for the value of the their land.

24. With these observation, Respondent No.2, North East Frontier Railway is directed to give market value of the lands of claimants @ Rs.25/- per Sq.ft along with 30% solatium on the market value as provided u/s 23(2) of the Land Acquisition Act and interest @ Rs 12% pa on the market value as provided u/s 23(1A) of the Act, within 60 days from the date of Judgment. Detail assessment submitted to the court which was found approved by both the Id counsel of petitioner and Respondent No.2 is annexed for ready reference and guidance. Payment and disbursement of compensation to the petitioner shall be completed within 2(two) months from the date of judgment. Any amount already paid if any shall be deducted.

The reference petition stand disposed off.

Give copy of this order to all concern.

Sd/- VANLALMAWIA,
Addl.District & Sessions Judge-I,
Aizawl Judicial District, Aizawl.

Memo No ____ /AD & SJ-I/2015 : Dated Aizawl the,5th February 2015.

Copy to :

1. District Judge, Aizawl Judicial District, Aizawl.
2. Rothanga & 275 others C/o Haulianthanga & others Advocate.
3. Deputy Commissioner, Kolasib C/o Rose Mary Addl. GA, Aizawl.
4. North East Frontier Railway Represented by Dy.Chief Engineer,CON/III/SCL, Silchar C/o A.Hussain Advocate.
5. Judicial Section.
6. Case record.
7. Guard file.

PESHKAR

IN THE COURT OF SHRI VANLALMAWIA, ADDL. DISTRICT JUDGE- I,

AIZAWL

L.A 30/2014

Rothanga & Ors : Plaintiff

Vrs

District Collector, Kolasib
Nothorn Front Railway represented by Deputy
Chief Engineer CON/III/SCL, Silchar : Respondent

EXTRACT COPY OF ORDER Dated 5.2.2015.

The ld. counsel for the claimant submitted that the mode of payment is not indicated in the judgment and Award.

As I have already assessed the compensation amount shall be deposited either to the court or claimant's attorney on being identified by this court.

Sd/- VANLALMAWIA,
Addl.District & Sessions Judge-I,
Aizawl Judicial District, Aizawl.

Memo No ____ /AD & SJ-I/2015 : Dated Aizawl the,5th February 2015.

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PESHKAR