

2. Written objection is received only from Respondent No.3 (NF Railway). The said respondent had stated that they have not yet started any works of development of land and placing tracks over the disputed land/graveyard while abiding by the orders of this Court. The said respondent further prays for early settlement of the dispute so as to enable them to proceed with the project. It is also further contended that in other portions of Bairabi – Sairang sector works are already in progress except the particular portion.

Apart from submitting written objection, the said respondent failed to make further appearance.

3. Respondent No.2 failed to enter appearance. Respondent No.1 & 4 are represented by the Ld. Addl.GA, but no objection is filed.

4. Mr. Lalramhluna, Ld. Counsel for the applicants submitted that the some claimants had approached the Honb'le Gauhati High Court by filing a writ petition which is registered as WP© No.101/2013. The grievance of the petitioners in the said writ petition is that the graves owned by them are to be affected by the acquisition of land under Award No.1 of 2012(Part A-Bairabi) but their names were not included whereas the names of 128 grave owners were included and that they have not been paid any compensation.

The said writ petition No.WP(C) No.101/2013 was disposed off vide Judgment & Order dt.13.2.2014 with the following direction:-

*“a) The petitioners shall file a fresh representation before the respondent No.4 i.e District Collector, Kolasib District, Mizoram within a period of 2(two) weeks from today.*

*b) the respondent No.4 District Collector, Kolasib District, Mizoram on receipt of the said representation shall dispose off the same within a period of 1(one) month from the date of receipt of the representation so filed by the petitioner by a speaking order.*

5. Upon perusal of the materials on record, particularly, LA Case No.42/2013, it is noticed that the said reference was made in compliance of the Order Dt.13.9.2013 passed by the honb'le gauhati High Court in WP (C) No.102/2013.

6. Perused the Order dt.13.9.2013 passed by the honb'le Gauhati High Court in the case of C .Lalramthara wherein the honb'le High Court has allowed the prayer of the petitioners to treat their applications as an application u/s 18 LA Act. Accordingly, in compliance with the said Order of the honb'le High Court, the applications were referred to Court u/s 18 LA Act for adjudication.

7. A reading of the objection filed by the Respondent No.3 (NF Railway) shows that they have not started any works of development of land and placing tracks over the disputed land/cemetery in compliance of the order passed by this court. In other portions of Bairabi-Sairang work is already in progress.

8. The Judgment & Orders passed by the hon'ble Gauhati High Court more particularly in WP (C) No.101/2013 wherein fresh assessment has been directed to be carried out is also to be kept in mind while considering this application.

9. In the instant case, the fact that the land in question is the grave(s) involving the sentiments of the petitioners is to be kept in mind, Secondly, re-assessment/further verification has to be conducted in respect of the area in the cemetery which will be acquired/damaged by the project in terms of the Judgment & Order Dt.13.2.2014 in WP(C) No.101/2013, thirdly, the fact that in the event of the graves being destroyed in the process of carrying out the project the ultimate outcome of the reference application i.e LA Case No,42/2013 can be futile and fourthly, work having not begun in the said portion of land though in the other area work has been executed, I am of the considered view that prima facie case and balance of convenience are in favour of the applicants. Further, the land in question in the instant application are not ordinary lands. They are the graves of the near and dear ones of the applicants. As such, any damage caused to such graves without the satisfaction of the applicants would involve hurting the sentiments and emotion of the applicants. Accordingly, the matter has to be dealt with extreme care and caution and any damage done cannot be compensated in terms of money.

10. For the reasons indicated in the foregoing paragraphs, I find that sufficient ground has been made out for grant of temporary injunction in favour of the applicants.

11. Accordingly, temporary injunction is issued to the respondents more particularly Respondent No.3(NF Railway) to refrain from damaging the graves belonging to the applicants till final disposal of LA Case No.42/2013 or till further order, which ever is earlier, while carrying out the construction work of railway track from Bairabi to Sairang.

12. With the above Order, the application stands disposed off.

**(HELEN DAWNGLIANI)**  
Addl. District & Sessions Judge  
Aizawl Judicial District : Aizawl

**Memo No. \_\_\_\_\_/AD&SJ(A)/2014**  
**Copy to: -**

**Dated Aizawl, the 4<sup>th</sup> March, 2014**

1. Applicants through Counsel Mr. Lalramhluna, Advocate.
  2. State of Mizoram represented by the  
Chief Secretary to the Govt. of Mizoram
  3. Secretary to the Govt. of Mizoram.  
Land Revenue & Settlement Department
- } through  
Mrs. Rose Mary,  
Addl. GA
4. District Collector, Kolasib District, Kolasib.
  5. Northern Front railway represented by Deputy Chief Engineer  
CON/III/SCL, Silchar through Mr. Rupendra Mohan Das, Advocate.
  6. Registration Section.
  7. Guard File.
  8. Case Record.

**P E S H K A R**