

**IN THE COURT OF THE ADDL.DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT: AIZAWL**

L.A Case No.8/2012

P R E S E N T

Mrs. Helen Dawngliani
Addl. District & Sessions Judge

1. C. Biakmawia, Tumpanglui
2. Dari, Tumpanglui
3. Hmunsiamia, Tumpanglui
4. Hmunsiamia, Tumpanglui
5. Johana, Tumpanglui
6. Lalbiakthanga, Tumpanglui
7. Lalhmunsiamia, Tumpanglui
8. Lalsiamia, Tumpanglui
9. Lalthanmawia, Tumpanglui
10. Lerkodo, Tumpanglui
11. Pobitro/Pobipro, Tumpanglui
12. Sapthlengliana, Tumpanglui
13. Zomuanthanga, Tumpanglui
14. Zorema, Tumpanglui
15. Binon Joy, Tumpanglui
16. Johana, Tumpanglui
17. Lalruanga, New Eden
18. V. Lalbiakthanga, Tumpanglui
19. Chawngmawii, Bawngva
20. Lalawmpuii, Bawngva
21. Sisi Kumar, Bawngva
22. Zohmingliana, Bawngva
23. IKK, Bawngva
24. K. Amona, Bawngva
25. Kapmawia, Bawngva
26. Laldingliana (L), Bawngva
27. Lalbiakkima, Tuidam
28. Lalbiaktluanga, Tuidam
29. Lalhmachhuana, Tuidam
30. Lalhmachhuana, Tuidam
31. Lalhnehliana Sailo, Tuidam
32. Lalkhawsiamia, Tuidam

33. Lalmuankiam Jongte, Tuidam
34. Lalngilneia, Tuidam
35. Lalnuntluanga, Tuidam
36. Lalsiamthara, Tuidam
37. Laltluanga, Tuidam
38. Liansavunga, Tuidam
39. Liansavunga, Tuidam
40. Malsawma, Tuidam
41. Rualkhuma, Tuidam
42. Siamkunga, Tuidam
43. Siamkunga, Tuidam
44. Thangliankhuma, Tuidam
45. Thangliankhuma, Tuidam
46. Thangliankhuma, Tuidam
47. Zadingluaia, Tuidam
48. Zomuankima, Tuidam
49. H.C. Lalhmingthanga, Tuidam
50. Hualthansanga, Tuidam
51. Thanglianmawia, Tuidam
52. Andrew, Darlak
53. B. Laltanpuia, Darlak
54. B. Vanlalrema, Darlak
55. Biaktinkhuma, Darlak
56. C. Chungnunga, Darlak
57. H. Vanlalmaka, Darlak
58. Vanlalhruaia, Darlak
59. C. Lalzawnychhunga, Darlak
60. Zonunthara, Darlak
61. C. Ngurmuanathanga, Darlak
62. C. Ramdailova, Darlak
63. C. Ramdailova, Darlak
64. C. Thansiam, Darlak
65. C. Zoramthara, Darlak
66. Chawngtianga, Darlak
67. Chawngthuama, Darlak
68. Darthanglura , Darlak
69. Digendas, Darlak

70. Ramhmingthanga, Darlak
71. H. Lalhmangaiha, Darlak
72. C. Lalthianghlina, Darlak
73. Lallianzuala, Darlak
74. Lalbuatsaiha, Darlak
75. Lalpiandinga, Darlak
76. Rohmingthangi, Darlak
77. Lalengmawii, Darlak
78. Lalhlimawma, Darlak
79. Sangsirai, Darlak
80. Rinthangi, Darlak
81. Tlangthankhuma, Darlak
82. Lalrawngbawla Colney, Darlak
83. Lalnunnema, Darlak
84. Zothangchhuaka, Darlak
85. Vanlalruata Chenkual, Darlak
86. Lalzawngliana, Darlak
87. Laltawia, Darlak
88. Lalkhumi, Darlak
89. Vanlalhriata, Darlak
90. Lalawmpuia, Darlak
91. H. Tlanghmingthanga, Darlak
92. H. Tlanghmingthanga, Darlak
93. H. Tlanghmingthanga, Darlak
94. H. Tlanghmingthanga, Darlak
95. Malsawma, Darlak
96. Laldala, Darlak
97. Lalrintluanga, Darlak
98. Rammawia, Darlak
99. Lalsangluaia, Darlak
100. H. Samuela, Darlak
101. H. Samuela, Darlak
102. Zodawla, Darlak
103. VFDC, Darlak
104. Samuela, Darlak
105. Lalenglina, Darlak
106. Lalhrualtuanga, Darlak

107. Thansiami, Darlak
108. Lalkhumbtiri, Darlak
109. Lalrintlinga, Darlak
110. Tlangliani, Darlak
111. R. Lianmawia, Darlak
112. Lalremsanga, Darlak
113. Zakamlova, Darlak
114. HT Zama, Darlak
115. HT Zama, Darlak
116. H. Laltanpuia, Darlak
117. Laltanpuia, Darlak
118. Hmingchungnunga, Darlak
119. Lalnunsangi, Darlak
120. Vanlalzawna, Darlak
121. Ngurnunmawia, Darlak
122. Lalzarliana, Darlak
123. Saikapthianga, Darlak
124. Saikapthianga, Darlak
125. MS Dawngliana, Darlak
126. W. Davida, Darlak
127. Lalnuntawmi, Darlak
128. Lalbiakhlua, Darlak
129. Zothanpuia, Darlak
130. Zothanpuia, Darlak
131. Lalmangaiha, Darlak
132. Romawia, Darlak
133. Saikapkunga, Darlak
134. MS Dawngliana, Darlak
135. Lalchhanhima, Darlak
136. Lalchhanhima, Darlak
137. Laldawli, Darlak
138. Rualthankhuma, Darlak
139. Rualthankhuma, Darlak
140. Thanzuala, Darlak
141. Kima, Darlak
142. Senlianpuia, Darlak
143. Lalrinmawia, Darlak

144. Indova, Darlak
145. P Muana, Darlak
146. Ramdinthara, Darlak
147. Lalthianghlina, Darlak
148. Lalnunpara, Darlak
149. Lalngaihzualla, Darlak
150. Lalhlimpaia, Darlak
151. Lalsikula, Darlak
152. Rinthanga, Darlak
153. Hmingthanvula, Darlak
154. Lalfela, Darlak
155. Hrankapa, Darlak
156. V.L Remruatkima, Darlak
157. J. Sangkhuma, Darlak
158. C Lalhlimauma, Darlak
159. Hualhmingliana, Darlak
160. Chhuangkima, Dapchhuah
161. R. Vanlalsangi, Dapchhuah
162. Lalhmunliana, Dapchhuah
163. K. Vanlalaiva, Dapchhuah
164. Rothangpuia, Dapchhuah
165. B Lalhmangaiha, Dapchhuah
166. Salvation Army, Dapchhuah
167. T. Sawiluaia, Dapchhuah
168. Petera, Dapchhuah
169. K. Mawipuii, Dapchhuah
170. Lalmuansanga, Dapchhuah
171. Muanzualla, Dapchhuah
172. Pianruai, Dapchhuah
173. Sanghmingthanga, Dapchhuah
174. F Thangkima, Dapchhuah
175. Laldawngliana, Dapchhuah
176. Laldawngliana, Dapchhuah
177. Lalkhama, Dapchhuah
178. Lalzuiliani, Dapchhuah
179. Biaktluanga, Dapchhuah
180. Vanlalvena, Dapchhuah

181. Zothangliana, Dapchhuah
182. Denghluna, Dapchhuah
183. Thanzawna, Dapchhuah
184. Laldinmawia, Dapchhuah
185. IKK, Dapchhuah
186. B Lalremthanga, Dapchhuah
187. VC Dapchhuah, Dapchhuah
188. H Lalhmangaiha, Dapchhuah
189. K Lalrinkima, Rawpuichhip
190. H Lalhmangaiha, Rawpuichhip
191. Rohmingthanga, Rawpuichhip
192. Lalnghakliana, Rawpuichhip
193. Lalhmingthanga, Rawpuichhip
194. Lalfala, Rawpuichhip
195. Lalrokhuma, Mamit
196. H Lalrotluanga, Mamit
197. Rothangpuia (L), Mamit
198. PC Vanlalbela, Mamit
199. PC Vanlalbela, Mamit
200. Khawpuimawia, Darlak
201. Lalvunga, Darlak
202. Rokhuma, Darlak
203. Lalneihkima, Darlak
204. H Lalduhawma, Darlak
205. Lalmalsawma, Darlak
206. Zoramthanga, Darlak
207. Sunila, Darlak
208. Lalbiakthanga, Darlak
209. VC Darlak, Darlak
210. C Nghakliana, Darlak
211. Lalawmpuii, Dapchhuah
212. Vanlalhruaia, Dapchhuah ... Applicants

Versus

1. District Collector,
Mamit District, Mamit
2. Secretary to the Govt. of Mizoram
Public Works Department.
Aizawl : Mizoram

3. Secretary to the Govt. of Mizoram
Land Revenue & Settlement Deptt.
Aizawl : Mizoram ... Respondents

Date of Hearing ... 27.02.2014

Date of Judgment & Award ... 27.03.2014

APPEARANCE

1. For the Applicants ... Mr. J. Lalremruata Hmar
Mr. K. Kawlkhuma
Mr. James Lalrintluanga
Mr. H. Lalremruata, Advocates

2. For Respondents No.1 ... None

3. For Respondents No.2 & 3 ... Mrs. Rose Mary, Addl. GA

JUDGMENT & AWARD

1. The applicants are owner of lands located with the lands acquired by the Government of Mizoram, Public Works department for widening of NH 150 to two-lane standard from Lengpui to Tripura border under Mamit District for which Award no.1 of 2010 was made by the District Collector, Mamit District, Mamit.

Aggrieved by non payment of solatium @ 30% and interest @ 12%pa in per section 23(2) and 23(1A) of the Land Acquisition Act, the applicants submitted an application u/s 18 of the Land Acquisition Act (LA Act in short) for reference to the court and the same has been referred to this court for adjudication.

2. Notices were issued to all the respondents. Respondent No.1 despite receipt of notice did not enter appearance. Respondent No.2 submitted written objection. No written objection is submitted by respondent No.3.

3. Heard the Ld. Counsels.

Mr. J. Lalremruata Hmar, Ld. Counsel for the applicants submitted at the outset that in the Award in question, areas acquired for widening as well as for diversion/bypass were included. The present applicants are owners of lands covered by the widening portion. According to the Ld. Counsel, it appears that the respondents, specially, the respondent No.2 is confused with the purpose for which the lands of the applicants were acquired i/e whether it was within the widening or diversion/bypass portion. The Ld. Counsel submitted that the applicants came to know about the existence of the Award No.1 of 2010 only on 24.2.2010 when he, acting as representative of the applicants sought information of the same through RTI. The Ld. Counsel further argued that the District Collector, Mamit failed to give immediate notice of the Award to the petitioners as per sec.12 of the LA Act and as such the petitioners are entitled to enjoy the benefit of

sec.18(2)(b) LA Act. The Ld. Counsel also submitted that the petitioners received their respective share of compensation in terms of the Award only from 17.10.2012 onwards, which is after submission of application u/s 18 LA Act. The Ld. Counsel therefore submitted that the application is not barred by time and as such the petitioners are entitled to payment of solatium and interest @ 12%pa in terms of the provision of sec.23(1A)(2) of the LA Act.

In support of his submissions the Ld. Counsel placed reliance on the decision of the honb'le Apex Court in the case of **Premji Nathu versus State of Gujarat** reported in **(2012)5 SCC 250**.

On the other hand, Mrs. Rose Mary, Ld. Addl. GA appearing for respondents No.2 & 3 by relying on the objection filed by the respondent No.3(Public Works Department) submitted that the petitioners did not raise any objection to the notice u/s 4 of the LA Act and when the compensation was disbursed, they received the same without any protest. The Ld. Counsel further submitted that the petitioners are well aware of their respective share of compensation as per the Award at the time of signing of documents in the office of the District Collector at Mamit. The Ld. Addl.GA also argued that the petitioners were fully aware of the process for the sanction of Supplementary Award No.1 of 2010 which was sent to the Central Govt. in the month of September, 2011. According to the Ld. Counsel, the representatives of the Project Affected People (PAP) often visited the office of the Respondent No.2 to apprise the situation regarding sanction of the Supplementary Award No.1 of 2010. Mrs. Rose Mary further submitted that part payment of Rs.3.13 crores was made on 12.12.2011 due to fund constraints only to those Project Affected People whose lands falls within the diversion portion of the proposed alignment in the National Highway 44A corridor from Lengpui to Langkaih. The same was disbursed from the office of the District Collector, Mamit on 7th & 8th February, 2012. That being the situation, the Ld. Counsel argued that it is rather strange how the petitioners claim to have knowledge of the Award only on 24.2.2012 when by such time they have already received their respective share of compensation in terms of the said Award. According to the Ld. Counsel, it is no doubt the statutory right of the petitioners to get solatium but the same has to be within time as prescribed by the LA Act. The Ld. Counsel, by relying on the objection filed, also raises doubt on the signatures of the petitioners.

4. At this stage the evidence adduced by the parties may be briefly highlighted:-

PW Nghakliana is one of the claimant/applicants and deposed on behalf of all the applicants. He stated that they gained knowledge of the Award only on 17.10.2012 when they received their respective share of compensation in terms of the Award for widening. He also stated that the District Collector of Mamit failed to give them notice of the Award (widening) even after it was approved by the concerned authority. He stated that

they (applicants) filed their application u/s 18 of the LA Act before they received their share of compensation and that the same was filed within time. The witness has placed on record three Actual Payment receipts as sample to show that compensation for widening was received on 17.10.2012. In his cross-examination, he stated that they came to know about the Award only on 17.10.2012 when they received their respective share of compensation in terms of the Award. He also stated that they were informed that the money was there in terms of the Award when they put their signatures at DC's Office Mamit. He admitted that payment of Rs.3.13 Crores was made on 7th and 8th February, 2012 and according to him the said payment was for those area covered for the purpose of diversion. He denied that they were aware of the Award even prior to 24.2.2012. He denied the suggestion that the District Collector through the VC made public announcement regarding distribution of compensation. He also denied that their representatives and Vcmemebers put their respective signatures in the Award at the time of pronouncement. He further denied the suggestion that though they saw the award from their representatives in time there has been delay on their part in filing the application.

DW No.1/H.Lalthanpuia who is the Sub.Divisional Officer, National Highway Sub. Division-II, Mamit deposed that Notification u/s 4 LA act was issued on 12.11.2007. No separate notification was issued for the area that would be covered for diversion and widening of the national highway (NH 44A). Thereafter, Award no.1 of 2008 was pronounced by the District Collector of Mamit. In terms of the Award payment was made in the year 2008 atself. However, as there was some complaints by some persons whose lands were not included in the Award though their lands were damaged, Supplementary Award No. 1 of 2010 was made. In terms of the Supplememtary Award, payment was made to the landowners on 7th & 8th February, 2012. He stated that sine he is not part of the establishment of the District Collector, he does not know in what manner the Award was made known to the landowners. But he learnt from the officials of the District Collector's office that representatives of the Project affected People(PAP) often go to their office and asked them of the status of the Award as well as the process being undertaken. According to this witness even if it is presumed that the landowners were not given notice of the Award, but on 7th & 8th February, 2012 when they received compensation they know the existence of the Award and since application u/s 18 LA Act was submitted only on 16th Aug.2012 it is clearly beyond 6 months and as such their application is barred by limitation. In his cross examination he stated that he does not know whether the compensation which was disbursed on 7th & 8th February, 2012 was only in respect of those land acquired for diversion. Since he joined his present post only in the month of December, 2012 he does not know whether the present applicants are amongst the landowners who received compensation on 7th & 8th February, 2012. He

does not know whether the District Collector complied with the provision of section 12(2) LA Act while pronouncing the Award as well as Supplementary Award. He also stated that National Highway Sub.Division-II, Mamit does not receive all correspondence from the DC Mamit in connection with the present acquisition.

DW No.2/K.Zorammuana is the Subordinate Deputy Commissioner at Mamit District, Mamit. He stated that as per record, on 23.1.2012 there was a meeting of the representatives of the District Collector, village Council President, landowners and their representatives in the chamber of the District Collector, Mamit regarding the instant Award. He also stated that on 6.2.2012 notice was issued to the Village Councils concerned and landowners that disbursement will be made w.e.f 8.2.2012 for widening. Accordingly, compensation was disbursed from 8.2.12. The witness further stated that though no separate Award was made for diversion and widening, Notice u/s 4 dt.17.11.2007 would show that it was for widening and diversion of road to two-lane standard from Lengpui to Tripura border within Mamit District. According to this witness as no objection was raised by the landowners u/s 5A of the LA Act, it loses its nature of compulsory acquisition as such the landowners are not entitled to payment of solatium and interest. The witness further deposed that as the claimants/their representatives were present in the meeting on 23.1.2012 it can be presumed that they were aware of the Award. On 6.2.2012 notice regarding disbursement of the Award was issued and there is no reason why the said notice cannot be regarded as notice of the Award. As such the reference application is barred by time. In his cross-examination, the witness stated that he joined his posting on 8.8.2013 and he has not come across the minutes of the meeting dt.23.1.2012. He has carefully perused the record before coming to the Court. He does not know whether the notice dt.6.2.12 sent to the village councils and each and every landowners are available on record. He denied the suggestion that he does not know an Award under the LA Act. According to him, an Award should contain name of the landowners and amount of compensation due to them. He admitted the suggestion that notice dt.6.2.2012 does not contain the name of the landowners and the amount of compensation due to each of them. However, he denied the suggestion that Notice u/s 6.2.12 cannot be construed as Notice u/s 12(2) LA Act. He admitted the suggestion that in the notice dt.6.2.12 the first paragraph reads "NH-44 diversion in a paltlang ram neitute zangnadawmna (compensation).....". He admitted the suggestion that a plain reading of the notice dt.6.2.2012 it appears that it is for those lands within the diversion area. He also admit that in the notice dt.6.2.12 there is no mention that it was issued u/s 12(2) LA Act. He further stated that on perusal of the reference application forwarded by the District Collector u/s 19 LA Act he does not find any document regarding the

particulars of the representatives of the landowners who were present in the meeting on 23.1.12

This witness could not reply the query made by the Court as to who all were present at the time of pronouncement of the Award by stating that he has not brought the record with him and that he does not know the date of pronouncement of the Award.

5. Vide Order Dt. 24.9.2012 the Ld. Counsel for the petitioners submitted that they will limit their claim only towards payment of Solatium U/s 23(2) and interest @12%pa U/s 23(1A) of the Land Acquisition Act.

6. The issues that require to be decided therefore are:-

- i) Whether the application is maintainable in its present form and style?
- ii) Whether the application is barred by limitation?
- iii) Whether the applicants are entitled to payment of solatium and interest as prayed for?

7. A perusal of the Supplementary Award No.1 of 2010 clearly show that it does not include Solatium U/s 23(2) and interest @12%pa u/s 23(1A) of the LA Act.

8. Issues No. 1 & 2:-

9. Section 18 of the LA Act prescribed the period within which objection can be filed. Sec 18(2)(a) reads :--

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award.

(b) in other cases, within six weeks of the receipt of the notice from the Collector under sec.12, sub section(2), or within six months from the date of the Collector's award, which ever period shall first expire."

Section 12(2) provides:-

"(2) the Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made".

10. It is not the case of the respondents that Notice u/s (12)(2) LA Act was issued. Respondent No.1 who is supposed to issue Notice u/s 12 of the LA Act have not made any representation. No explanation is also given with regard to the manner in which the acquisition was carried out nor is there compliance of sec.19 LA Act. Though respondent No.3 submitted that the petitioners are aware of their respective share of compensation, they have not given a clear reply that notice u/s 12 LA Act was issued to the land owners

by the District Collector, which is a mandatory provision. The only document available in this regard is the letter dt.24.2.2012 addressed to Mr. J. Lalremruata, Ld. Counsel for the petitioner from the SPIO, DC's office, Mamit directing him to collect the information required regarding payment of compensation.

In the case of **Premji Nathu (supra)** the honb'le Apex Court has held:-

"15.. 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".

In the case of **State of Punjab versus Qaisar Jehan Begum** reported in **AIR 1963 SC 1604** the honb'le Apex court has earlier held as follows :-

"5..... It seems clear to us that the ratio of the decision in Harish Chandra Case is that the party affected by the award must know it, actually or constructively, and the period of six months will run from the date of that knowledge. Now, knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under Section 12(2) of the Act, the party must be obviously fixed with the knowledge of the contents of the award whether he reads it or not. Similarly, when a party is present in court either personally or through his representative when an award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of essential contents of the award" (emphasis supplied).

11. Apart from the failure to comply with section 12(2) LA Act, as the Respondent No.1 i.e District Collector, Mamit has failed to file any objection nor complied with the provision of sec.19 LA Act it is not known whether notice was ever made to the petitioners/land owners. Further, there is no provision in the LA Act, where presumption can be drawn regarding Notice which can take the place of Notice U/s 12(2) LA Act. In the instant case, DW/K.Zorammuana admitted that in the notice dt.6.2.2012 there is no mention that the said notice was issued u/s 12(2) of the Land Acquisition Act

12. The applicants stated that their lands fall within the area taken for widening of the National Highway and that payments which were made earlier i.e before they filed the application u/s 18 LA Act are in respect of those lands owners whose lands fall within the diversion area. The submission of the applicants is that they received the compensation in terms of the Award only after filing the present application from

17.10.2012 onwards. In this regard, Respondent No. 3 in reply to para No.3 4 of the application have stated *“A part payment of Rs.3.13 crores was made on 12th December 2011 due to fund constraints, only for the PAP’s in the Diversion/Bypass portion of the proposed alignment in the NH44A corridor from Lengpui t o Langkaih. This was disbursed by the D C Mamit on 7th & 8th February 2012 in Mamit....”*. Apart from this, no statement is made by the respondents about payment already being made to the applicants prior to the filing of the application u/s 18 LA Act. From the statements of the said respondents, it is clear that they admitted the stand of the applicants that payments which were made earlier were in respect of the lands covered by Diversion/Bypass portion. They have not rebutted the stand of the applicants that their lands fall within the area meant for widening of the highway. A notice dt.6.2.12 which the respondents asserted that it was send to the landowners clearly shows that the said payment was to be made for those lands falling within the diversion area- the notice reads *“ NH-44A diversion in a paltlang ram neitute zangnadawmna(compensation)....”*

13. Keeping in mind the interpretation given by the honb’le Apex Court in the case of **State of Punjab versus Qaisar Jehan Begum (supra)**, it appears from the pleadings of the respondent that no specific date can be quoted as the date on which the petitioners can be considered to have knowledge of the contents of the Award.

14. Doubt has been raised by the Respondent No.3 regarding the applicants claim of gaining knowledge of the Award only on 24.2.2012. In this regard, it appears that such averment is contradictory to their own statement wherein they have stated that the payments which were made on 7th & 8th February, 2012 were in respect of land owners whose lands fall within the diversion/bypass areas, whereas, the lands of the present petitioners are within the area acquired for widening and not for Diversion/Bypass though all such lands were covered by the same Award.

15. The honb’le Apex Court in the case of **Sunder versus Union of India** reported in **(2001) 3Suppl.SCR 176 h** has held as follows:-

“22. Compulsory nature of acquisition is to be distinguished from voluntary sale or transfer, in the latter, the landowner has the widest advantage in finding out a would-be buyer and in negotiating with him regarding the sale price. Even in such negotiations or haggling normally no landowner would bargain for any amount in consideration of his disinclination to part with the land. The mere fact that he is negotiating for sale of the land would show that he is willing to part with the land. The owner is free to settle terms of transfer and choose the buyer as also to appoint the point of time when he would be receiving consideration and parting with his title and possession over the land. But in the compulsory acquisition the landowner is deprived of the right and opportunity to

negotiate and bargain for the sale price. It depends on what the Collector or the Court fixes as per the provisions of the Act. The solatium envisaged in sub-section (2) 'in consideration of the compulsory nature of acquisition' is thus not the same as damages on account of the disinclination to part with the land acquired"

A reading of the said decision would imply that payment of solatium does not depend on the inclination or disinclination of the landowner to part with the land.

Further, 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.*

16. From the above discussion, since the respondents have not pleaded that Section 12(2) LA Act was complied with and since they have not stated that compensation disbursed to some land owners during the month of February, 2012 include the present applicants or that the same was received by the petitioners without protest, I do not find any reason why the application should be barred by limitation or on other technicalities raised by the respondents. Accordingly, the said issues are decided in favour of the applicants.

17. Issue No.3

A perusal of the Award itself would clearly show that it does not include solatium and interest u/s 23(1A)(2) L A Act. A reading of the provisions of Section 23(1A) and Sec.23(2) of the LA Act shows that it is mandatory upon the court to award interest @12%pa and solatium @30%. A bare reading of the Award would show that the compensation does not include payment u/s 23(1A) & (2) of the LA Act. While deciding on Issue No.1 & 2 it has been held that the application is not barred by limitation. Further, since it has also been decided that the land owners who received compensation in the month of February 2012 were not the present applicants, and the submission of the applicants is that they received the Award during the pendency of this application, I find that the question as to whether the applicants received the award under protest or not (as provided

u/s 31 LA Act) would not have any relevance. Even if the applicants did not specifically received the award under protest, the fact that application u/s 18LA Act have been filed prior to receipt of the award shows that the applicants are aggrieved by the Award.

Accordingly, Issue No.3 is also decided in favour of the applicants.

A W A R D

In terms of the Award No.1 of 2010, the total amount of compensation payable to the 212 petitioners is **Rs. 3,54,68,505/- (Rupees three crore fifty four lakh sixty eight thousand five hundred five)** only. In addition to the said amount, the applicants shall be entitled to payment of solatium u/s 23(2) LA Act @ 30% in addition to the market value of the land in consideration of the compulsory nature of acquisition amounting to **Rs. 1,06,40,551/- (Rupees one crore six lakh forty thousand five hundred fifty one)** only.

Further, as per sec. 23(1A) of the LA Act, in addition to the market value, the applicants shall be entitled to payment of interest @ 12% pa from the date of publication of Notice u/s 4 LA Act i.e. 12.11.2007 to the date of the award of the Collector i.e 13.1.2011 which is the date of approval of the Award amounting to **Rs. 1,34,79,975/- (Rupees one crore thirty four lakh seventy nine thousand nine hundred seventy five)** which is calculated for three years and sixty one days.

Respondent No.3 (Public Works Department) who is the acquiring Department is liable to pay the said amount within a period of three months from today failing which the said additional amounts payable shall carry an interest @ 6% per annum.

Pronounced in open Court and given under my hand and the seal of this Court on this 27th March, 2014.

Sd/- HELEN DAWNGLIANI
Addl. District & Sessions Judge
Aizawl Judicial District : Aizawl

Memo No. ____/AD&SJ/2014 : Dated Aizawl, the 27th March, 2014
Copy to: -

1. C. Biakmawia & Ors. through Counsel Mr. K. Kawlkhuma, Advocate.
2. District Collector, Mamit District, Mamit.
3. Secretary to the Govt. of Mizoram,
Public Works Department, Aizawl, Mizoram.
4. Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department,
Aizawl, Mizoram.
5. Registration Section.
6. Guard File.
7. Case Record.

through Counsel
Mrs. Rose Mary,
Addl. GA

P E S H K A R