

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.7042-7044 OF 2025
(Arising out of SLP(C)Nos. 14787-14789 of 2023)

UNION OF INDIA & ORS.

... APPELLANTS

Versus

KESANG DORJEE & ORS.ETC.

... RESPONDENTS

O R D E R

1. Leave granted.

2. The Union of India through Cabinet Secretary, the Ministry of Defence and other Army Authorities are aggrieved by judgments dated 18.12.2019, 16.11.2022, and 09.03.2023, passed by the Gauhati High Court, Itanagar Bench. Vide the first judgement, the High Court has disposed of the Writ Petition filed by the private respondents with a direction to initiate acquisition of the subject land. Vide the second judgment, the High Court dismissed the intra-court appeal against the first judgement on the ground of delay and laches. The final order dated 09.03.2023 eventually turns down the Review Petition filed by the appellants.

3. Respondent Nos.1-24 belong to the community which own the land in villages Bona and Mayum, near the 'Line of Actual Control' in the State of Arunachal Pradesh. The Indian Army took possession of 73.96 acres of land in village Bona and 81 acres of land in village Mayum on 01.01.2010 for construction of various facilities near the

border. The possession was taken in purported exercise of powers under Section 3 of The Requisitioning and Acquisition of Immovable Property Act, 1952 (for short, 'the Act'). Section 3 of the aforesaid Act empowers the Competent Authority to requisition any property which, in its opinion, is needed for any public purpose of the Union of India.

4. Section 4 of the Act vests power in the Competent Authority to take physical possession of the property, which has been requisitioned under Section 3 of the Act.

5. Thereafter, Section 5 enables the Authorities to use the properties for such purposes as may be mentioned in the notice of requisition.

6. In the instant case, we are concerned about the issue that revolves around Section 8 of the Act. The said provision outlines the principles and method of determining compensation for the land which has been requisitioned, or which may have subsequently been acquired.

7. As can be seen from a reading of the statute, the possession of the subject land, taken over by our Armed Forces, is statutorily protected under Section 3 of the Act. The statutory scheme contemplates that the aggrieved owners can seek compensation for their requisitioned property, which is to be assessed in accordance with the criteria laid down in Section 8 of the Act.

8. According to learned Additional Solicitor General of India, representing the appellants, compensation payable to the respondents in lieu of possession of their land has been assessed from time to time by the Collector of the area and such

compensation has been regularly paid for the requisitioned property.

9. It seems that respondent Nos.1-24, who belong to the community in whom the land statedly vests, were dissatisfied with the amount of compensation. They have been, accordingly, running from pillar to post for impressing upon the Union of India "to acquire" the subject land. In other words, the respondents have been making efforts that instead of invoking powers under the 1952 Act for requisition of the property, the same may be acquired under the Land Acquisition Act, 1894. With the passage of time, and as a result of repealing of the 1894 Act, the respondents have substituted their demand, now seeking acquisition of their land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the 2013 Act").

10. It is in this backdrop that a learned Single Judge of the High Court passed an order, dated 18.12.2019, which suggests that efforts were made for mutual settlement between the parties, and it was in furtherance of the settlement between the parties that the learned Single Judge disposed of the Writ Petition with a direction to the DM, Upper Sian District, Arunachal Pradesh, to initiate acquisition proceedings to acquire the subject land under the 2013 Act. It is pointed out that the purported settlement, referred to by the learned Single Judge in the impugned judgment was, in fact, pertains to negotiations which took place between the parties in some other case. In other words, the learned Single Judge misconstrued the instances of the parties and proceeded on the

premise as if they have amicably resolved for the acquisition of land for which the process was to be initiated by the local Collector. That is why the learned Single Judge has issued directions for acquisition of the entire land in a time-bound manner.

11. The intra-court appeal was filed with an inordinate delay of 824 days, due to which the same was dismissed on the ground of delay and laches. However, when the matter came up before this Court on 06.07.2023, all three impugned judgments of the High Court were stayed. Consequently, none of the directions issued by the learned Single Judge, as affirmed by the Division Bench have been given effect.

12. Two questions, thus, arise for our consideration: (i) Whether the High Court, in exercise of its writ jurisdiction, could direct the State through a Writ of Mandamus, to compulsorily acquire the land; and (ii) Whether the land which is already under requisition, under the 1952 Act, can be directed to be acquired under the provisions of the 2013 Act?

13. On consideration of the rival submissions, we find that the possession of the subject land was taken by the Indian Armed Forces on 01.01.2010. The power to take possession is referable to Section 3 of the 1952 Act. So long as the land is being used for the purpose of Union of India, the possession thereof can be retained up to the time-limit as prescribed under Section 6(1A) of the Act. There appears to be no provision under the Act which expressly prohibits fresh requisition of a property on expiry of the statutory period of 17 years under Section 6(1A) of the Act.

14. Be that as it may, the scheme of the statute provides adequate compensation to the expropriated land-owners, who have been deprived of the fruits of such land. Section 8 of the Act, as noticed earlier, lays down the method of determining such compensation. Under the scheme of the statute, the parties are expected to fix the compensation through mutual settlement. However, if that does not fructify, Section 8(1)(b) mandates that the Central Government shall appoint as arbitrator a person, who is or has been or is qualified for appointment as a Judge of a High Court. The amount of compensation for the requisitioned land is, thus, required to be determined by the arbitrator.

15. Learned Additional Solicitor General of India, on instructions, categorically states that the subject land is just six kilometers away from the Line of Control and the Government of India does not want to acquire it. She, however, submits that the compensation in terms of Section 8 of the Act has been assessed by the Collector from time to time and crores of rupees towards that compensation have been paid.

16. In this regard, we find that the respondent-land-owners have time and again alleged inadequacy of compensation due to which they went to the extent to approach the High Court to issue a direction for acquisition of their land. We are, thus, of the opinion that in view of Section 8(1)(b) of the Act, it is imperative for the Central Government to appoint an arbitrator to determine the compensation amount in lieu of requisition of the subject land. We, thus, direct the Union of India to follow the procedure contemplated under Section 8(1)(b) of the Act and appoint

an arbitrator within a period of six weeks. The learned arbitrator shall make an endeavour to determine the compensation amount that may be payable to the owners of the land, as early as possible, and pronounce the award within a period of one year after giving adequate opportunity to the parties to produce the relevant material, if any, that may help in determining the compensation.

17. In light of the discussion hereinabove, we are satisfied that the High Court could not have issued a direction for acquisition of the land.

18. Consequently, the impugned judgments of the Single Judge as well as the Division Bench of the High Court are set aside. The appeals stand allowed in the above terms.

19. As a result, the pending interlocutory application stands disposed of.

.....J.
(SURYA KANT)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
MAY 20, 2025.

ITEM NO.21

COURT NO.2

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).14787-14789/2023

[Arising out of impugned final judgment and order dated 09-03-2023 in RP No.12/2022 and order dated 18-12-2019 in WPC No. 181/2019 and order dated 16-11-2022 in IA(C) No.65/2022 passed by the Gauhati High Court at Itanagar]

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

KESANG DORJEE & ORS.ETC.

Respondent(s)

(IA No. 120346/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 20-05-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mrs. Aishwarya Bhati, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Madhav Sinhal, Adv.
Ms. Harshita Choubey, Adv.
Ms. Chitragda Rastravara, Adv.
Ms. Shivika Mehra, Adv.
Mr. Anukalp Jain, Adv.

For Respondent(s) Mr. Abhimanyu Tewari, AOR
Mr. Siddhant Saroha, Adv.
Mr. Sidhant Awasthy, Adv.
Mr. Aniket Kumar Parcha, Adv.

Mr. Anil Shrivastav, A.A.G.

Ms. Avni Shrivastav, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals stand allowed in terms of the signed order.

As a result, the pending interlocutory application stands disposed of.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR

(Signed order is placed on the file)