

GAHC010231262024



2024:GAU-AS:11084-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : PIL/64/2024

1: MAHESH DEKA AND 2 ORS
S/O- SRI. DANDIRAM DEKA, R/O- H.NO. 13, K.K.BHATTA ROAD,
CHENIKUTHI, GUWAHATI- 781003 ASSAM

2: SRI CHANDAN KR. BORGOHAIN
S/O- LATE CHITARANJAN BORGOHAIN R/O- H.NO. 24
BHAGADUTTAPUR KAHILIPARA GUWAHATI 781019 ASSAM

3: SRI. JAYANTA GOGOI
S/O- MOTILAL GOGOI
R/O- RAJGARH ROAD GUWAHATI 781003 ASSAM

VERSUS

1: THE STATE OF ASSAM AND 5 ORS REPRESENTED BY THE CHIEF
SECRETARY TO THE GOVERNMENT OF ASSAM, DISPUR, GUWAHATI
781006

2:THE SPL. CHIEF SECRETARY GOVERNMENT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT DISPUR GUWAHATI 781006

3:THE COMMISSIONER AND SECRETARY GOVERNMENT OF ASSAM
PUBLIC WORKS (ROADS) DEPARTMENT DISPUR GUWAHATI- 781006

4:THE ASSAM STATE POLLUTION CONTROL BOARD REPRESENTED BY
THE MEMBER SECRETARY BAMUNIMAIDAM GUWAHATI 781021

5:M/S ANUPAM NIRMAN PVT. LTD. REPRESENTED BY THE MANAGING
DIRECTOR BHASKAR NAGAR BY-LANE 2 RGB (ZOO NARENGI) ROAD
GUWAHATI 781021

6:M/S GAUTAM CONSTRUCTION CO. LTD. REPRESENTED BY THE
MANAGING DIRECTOR 4TH FLOOR AMAZE TOWER A.T. ROAD
PALTAN BAZAR BEAT NO. 14 GUWAHATI 78100

For the Petitioner(s) : Mr. K.N. Choudhury, Senior Advocate, assisted by Mr. V. Rajkhowa, Advocate.

For the Respondent(s) : Mr. D. Saikia, Advocate General, Assam, assisted by Mr. D. Nath, Standing Counsel, PWD.

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

13.11.2024
(Vijay Bishnoi, CJ)

This PIL petition is filed by the petitioners essentially raising a grievance that the State Agencies have decided to construct two arms, i.e. Tayabullah Road (390 m) and West Dighalipukhuri Road (250 m) connecting the under construction elevated corridor/road on GNB Road from RBI Office in Ambari to FCI Godown in Noonmati. It is alleged that on account of construction of the above referred two arms, the old trees aged about hundred years or more in and around Dighalipukhuri pond are required to fell down. It is also stated in the writ petition that thousands of residents of Guwahati, who are concerned about the environment, are protesting against the action of the respondents of felling the trees which are hundred years old or more than that.

This Court, vide order dated 04.11.2024, issued notices to the respondent Nos.1 to 4 to clarify its stand though Mr. Saikia, learned Advocate General, Assam has submitted before this Court that the State Government is seriously considering to change the alignment of the road to avoid felling of the old trees.

Affidavit is filed on behalf of the Secretary to the Government of Assam, Public Works Roads Department, Dispur, Guwahati, wherein it is specifically stated that the matter was taken up at highest level and on 05.11.2024, Hon'ble the Chief Minister of Assam has announced about realignment of the proposed Flyover without affecting the two sides of Dighalipukhuri pond and trees standing thereon. The relevant portion of the affidavit is extracted hereunder:-

“The deponent states that matter was taken up at the highest level and accordingly, on 5.11.2024 the Hon’ble Chief Minister, Assam has announced about realignment of the proposed Flyover without affecting the two sides of Dighalipukhuri pond and the trees standing therein. As per the proposal, the design of the Flyover has been modified and now one side of the bridge will start from Lamb road point at GNB Road and the other side will start at GNB Road near Rabindra Bhawan point resulting both the banks of the Dighalipukhuri and trees will not be affected in any manner whatsoever. The realignment of the flyover has been decided, and, necessary survey and preparatory works are going on for the new design and the same is not yet finalized. It is pertinent to reiterate in most categorical terms that not a single tree on the bank of Dighalipukhuri will be affected under the modified design of alignment of the proposed Flyover in question.”

In view of the fact that now the State Government has decided to change the alignment of the two arms, which could have resulted into cutting of the trees, which are hundred years old or more, we are of the view that the grievance raised by the petitioners in this PIL petition has already been redressed. Hence, no further order is required to be passed in this petition.

Needless to say that if in future the petitioners or any other vigilant citizen feels that the stand taken in the affidavit by the State is not adhered to, he or she may be free to approach this Court by way of appropriate proceedings.

With the above observation, the PIL petition stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant