

## On the Death of Md. Abdul Matlib his L/R Must Rupjan Bibi and Others Vs State of Assam and Others

**Court:** Gauhati High Court

**Date of Decision:** Feb. 5, 2003

**Acts Referred:** Assam Land (Requisition and Acquisition) (Amendment) Act, 1964 "Section 17, 6

**Citation:** (2003) 2 GLR 574

**Hon'ble Judges:** P.P. Naolekar, C.J.; Ranjan Gogoi, J

**Bench:** Division Bench

**Advocate:** A.S. Choudhury, for the Appellant; D. Goswami, G.A., for the Respondent

**Final Decision:** Dismissed

### Judgement

P.P. Naolekar, C.J.

The plaintiff appellant filed a suit (TS No. 32/90) claiming the relief of declaration that the order of Deputy

Commissioner, Nagaon dated 7.5.1976 acquiring the land is illegal not tenable and null and void ; for a decree for declaring right, title and interest

in favour of the plaintiff and for a decree of khas possession evicting the defendants from the suit land.

2. The suit was filed on the allegations that the suit property 3 Kathas 8 Lechas of land covered by Dag No. 209 of P.P. No. (Old 105/41/8/85/

104) New 191 of the Village - Dabaka Revenue Town, Mouza Jamunamukh in the district of Nagaon belongs, to his father and after the death of

his father he inherited that property. That the suit land was acquired by the Deputy Commissioner, Nagaon on 7.5.1976 under the Assam Land

(Requisition and Acquisition) Act, .1964 (hereinafter shall be referred to as the ""Act of 1964""). The acquisition was made without showing any

purpose and without following the prescribed procedure. As the acquisition was made contrary to the provisions of law the plaintiff, being the

owner of the property, is entitled for declaration of the order of acquisition as invalid and also for a declaration that as the owner of the property he

is entitled to get the possession. The trial court framed several issues and has held, amongst other issues, that the civil court has not jurisdiction to

adjudicate upon the question raised in the suit filed by the plaintiff appellant and consequently dismissed the suit.

3. Aggrieved by the judgment and decree passed by the trial court the present appeal is filed. It is submitted by the learned counsel for the

appellant that the decision of the trial court that civil court has no jurisdiction is contrary to the provisions of law as the Act of 1964 nowhere

debars the civil court to exercise the jurisdiction for the cause of action alleged in the plaint.

4. Section 17 of the Act 1964 read as under :

17 Saving. - Save as otherwise expressly provided in this Act no decision or order made in exercise of any power conferred by or under this Act

shall be called in question in any court"".

By virtue of Section 17 of the Act of 1964 no decision or order made in exercise of any power conferred by or under the Act shall be called in

question in any court. Thus, Section 17 debars the jurisdiction of any court who to entertain any objection or suit challenging the decision taken or

the order made under the Act of 1964. Section 6 of the Act of 1964 provides for acquisition of land. Any order passed u/s 6 acquiring land by the

Government would be an order passed under the Act of 1964. The order of acquisition being issued in pursuance of the powers vested by virtue

of section 6 of the Act of 1964, it cannot be challenged in any court as provided u/s 17 of the Act. The suit in the civil court challenging the

acquisition is barred by virtue of Section 17 of the Act of 1964. The trial court has rightly held that the jurisdiction of the civil court is barred and

thus no relief can be granted to the plaintiff appellant.

5. The judgment and decree, passed by the learned trial court is confirmed. Appeal stands dismissed. No order as to costs, it shall, however, be

open for the appellants to approach the appropriate forum for, their relief.