

GAHC010000922021



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

Case No. : WP(C)/176/2021

ACHYUT KUMAR BORA
S/O LATE UPEN BORA
RESIDENT OF VILLAGE BORAKHAT,K PO AND PS CHAYGAON, DIST
KAMRUP (R) ASSAM, 781124

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE (SETTLEMENT) DEPARTMENT, DISPUR,GUWAHATI 6

2:THE SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND DM DEPT. DISPUR
GHY 06

3:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
REVENUE (SETTLEMENT) DEPT. DISPUR. GHY 06

4:THE DEPUTY COMMISSIONER
KAMRUP M
KAMRUP M ASSAM 781001

5:THE SETTLEMENT OFFICER

ULUBARI
GUWAHATI 7
KAMRUP M ASSAM

6:THE CIRCLE OFFICER

DISPUR
REVENUE CIRCLE
BASISTHA CHARIALI
GUWAHATI
KAMRUP M ASSA

For the petitioner (s) : Mr. R. Sarma, Advocate

For the respondent (s) : Mr. B. J. Talukdar, Addl. Sr. Govt. Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

04.10.2023

The instant writ petition has been filed by the petitioner being aggrieved by the inaction on the part of the respondent authorities in not granting the settlement of the land in favour of the petitioner by issuance of a periodic lease as well as also in not handing over the possession of the land measuring 1 katha 10 lechas covered by Dag No.687 (Pt) situated at village Hengrabari under Mouza Beltola in the district of Kamrup (M), Assam.

2. From a perusal of the materials on record, it reveals that the Revenue (Settlement) Department of the Government of Assam vide the communication dated 04.03.1993 conveyed that the Governor of Assam was pleased to order for settlement of 1 katha 10 lechas of Sarkari land covered by Dag No. 687 (Pt) of village Hengrabari under Beltola Mouza in favour of the petitioner and his wife in the joint title of spouse for residential purpose subject to payment of 100% land value as premium. The land value has been fixed at Rs. 15,000/- per katha. Apart from that vide the said communication, it was also mentioned that the possession of

the land may be handed over and the land records be corrected on receipt of the due premium from the petitioner in full. It further transpires that vide another communication dated 11.05.1993, the earlier communication dated 04.03.1993 was modified to the extent that the petitioner would get 25% exemption on the premium payable to the Government as he belongs to the Schedule Caste. The record further shows that the petitioner had duly paid the due premium on 15.06.1993, 27.09.1994 and 12.12.1994 as is apparent from Annexure Nos.C1, C2 & C3 in three installments. It further reveals that the petitioner thereupon has been pursuing with the respondent authorities for the purpose of handing over the possession, correction of the revenue records in respect to the allotment of 1 katha 10 lechas of the Government land covered by Dag No.687 (Pt) of village Hengrabari under Mouza Beltola. In spite of representing before the respondent authorities time and again as the respondent authorities did not take any steps, the petitioner has been compelled to approach this Court by filing the instant writ petition.

3. This Court vide an order dated 20.01.2021 issued notice. The respondent No.6, i.e. the Circle Officer, Dispur Revenue Circle, Kamrup (M) had filed an affidavit-in-opposition. Paragraph Nos. 4 & 5 of the said affidavit-in-opposition being relevant are quoted hereinunder:-

“4. That the deponent begs to state that in the available office chitha records prepared after completion of the re-settlement operation in Guwahati City in respect of revenue village Hengrabari, Mouza-Beltola it is seen that the old Govt. Dag No. 687 has been renumbered as new Govt. Dag Nos. 3335, 3337, 3373, 3374, 3375, 3376, 3378, 3379, 3383, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3390 and 3391. It is also seen that land measuring 11.60 Are has been recorded in Dag No. 3335, land measuring 12.65 Are in Dag

No. 3337, land measuring 6.33 Are in Dag No. 3373, land measuring 0.98 Are in Dag No. 3374, land measuring 10.70 Are in Dag No. 3375, land measuring 1.70 Are in Dag No.3376, land measuring 3.34 Are in Dag No.3378, land measuring 0.48 Are in Dag No. 3379, land measuring 4.75 Are in Dag No.3380, land measuring 5.52 Are in Dag No. 3381, land measuring 2.45 Are in Dag No.3382, land measuring 4.03 Are in Dag No.3383, land measuring 5.42 Are in Dag No. 3384, land measuring 20.65 Are in Dag No.3385, land measuring 5.27 Are in Dag No. 3386, land measuring 11.71 Are in Dag No.3387, land measuring 8.27 Are in Dag No. 3388, land measuring 3.61 Are in Dag No.3390, land measuring 7.28 Are in Dag No. 3391, in total 126.74 Are has been recorded as Govt. land in the chitha records of the said village and Mouza available in this office. Again as seen in the available chitha records of the said Village and Mouza, out of the total Govt. land measuring 126.74 Are recorded in the above mentioned new Dag numbers of old Dag No.687 no part of the land has been included in periodic patta records in the name of the writ petitioner. During field inquiry it is found that the writ petitioner has no possession in any portion of land covered by above mentioned new Dag Nos which is created from old Dag No.687.”

4. From a perusal of the above quoted paragraphs it is seen that the old Govt. Dag No. 687 has been renumbered as new Govt. Dag Nos. 3335, 3337, 3373, 3374, 3375, 3376, 3378, 3379, 3383, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3390 and 3391. It was mentioned in the said paragraphs that as available from the Chitah records of the said Village and Mouza, out of the total Government land measuring 126.74 Are (recorded in the above mentioned new Dag Numbers of old Dag No.687) no part of the land has been included in the periodic patta records in the name of the writ petitioner. It was also found during field inquiry that the writ petitioner has no possession on any portion of the land covered by above mentioned new Dags which were created from the old

Dag No.687.

5. Taking into account the stand of the respondent No.6, this Court sought for instructions vide an order dated 11.09.2023 as to whether there is any available Government land in various new Dags which came into existence in the recent re-settlement operation pertaining to old Dag No.687.

6. Today, Mr. B. J. Talukdar, the learned Additional Senior Government Advocate has placed an instruction issued by the Circle Officer, Dispur Revenue Circle dated 28.09.2023. From the said instruction, it reveals that a total of 126.74 Are Government land is still available. The said instruction is kept on record and marked with the letter "X".

7. Taking into account that the land had been allotted by the Government and the petitioner had duly paid the premium as far back in the year 1994, the respondent authorities, more particularly, the Deputy Commissioner, Kamrup (M) is under an obligation as per the settlement Rules framed under the Assam Land and Revenue Regulation, 1886 to issue a periodic lease in favour of the petitioner. Further to that 126.74 Are of Government land still stands in the name of the Government. Upon issuance of the periodic lease, the Deputy Commissioner, Kamrup (M) or his delegatee is also required to hand over the possession of the land in favour of the petitioner.

8. In that view of the matter, the instant writ petition stands disposed of with a direction to the Deputy Commissioner, Kamrup (M) to issue the periodic lease in favour of the petitioner of an area of 1 katha 10 lechas of land falling on any of the new Dag Numbers which came into existence in

the recent re-settlement operation from Dag No.687 (Pt) and also hand over the possession of such land to the petitioner.

9. The said exercise be completed within a period of two months from the date a certified copy of the instant order is served upon the Deputy Commissioner, Kamrup (M).

JUDGE

Comparing Assistant