

GAHC010004572021



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

Case No. : WP(C)/448/2021

SOLEMAN HUSSAIN
S/O. LT. HAJI ABDUL MAJID MIA, R/O. LAKHIPUR TOWN WARD NO.2,
RAJABARI, P.O. LAKHIPUR, DIST. GOALPARA,

VERSUS

THE STATE OF ASSAM AND 12 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, RECENUE
DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR
AND RECORDS AND SURVEYS ETC. RUPNAGAR
GUWAHATI-32.

3:THE DY. COMMISSIONER
GOALPARA
ASSAM
PIN-783101.

4:THE CIRCLE OFFICER
LAKHIPUR REVENUE CIRCLE
LAKHIPUR
DIST. GOALPARA
ASSAM
PIN-783129.

5:THE LAKHIPUR MUNICIPAL BOARD
LAKHIPUR REP. BY ITS CHAIRMAN
P.O. LAKHIPUR
DIST. GOALPARA
PIN-783129.

6:MANEKI CHAUHAN
W/O. LT. NAGINA CHAUHAN

R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

7:OM PRAKASH CHAUHAN
S/O. NAGINA CHAUHAN
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

8:DINI CHAUHAN
S/O. NAGINA CHAUHAN
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

9:LAKSHI CHAUHAN
D/O. NAGINA CHAUHAN
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

10:SUBETRI CHAUHAN
D/O. NAGINA CHAUHAN
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

11:PANTLA CHAUHAN
S/O. NAGINA CHAUHAN
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

12:RAJENDRA NUNIA @ RAJENDRA CHAUHAN
S/O. RAMDRI NUNIA
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129.

13:MUNNI NUNIA

W/O. RAJENDRA NUNIA
R/O. LAKHIPUR TOWN WARD NO.3 (NUTUN BAZAR)
P.O. LAKHIPUR DIST. GOALPARA
ASSAM
PIN-783129

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 26-05-2023

Heard Ms. R. Choudhury, learned counsel for the petitioner; Ms. N. Bordoloi, learned Standing Counsel, Revenue Department for the respondent nos. 1 & 2; Mr. M. Chetia, learned Junior Government Advocate, Assam for the respondent nos. 3 & 4; and Mr. S. Hoque, learned counsel for the respondent nos. 6, 8 & 9. Though the names of the learned counsel for the respondent nos. 12 & 13 are reflected in the cause-list, none has appeared for the said respondents today on call.

2. The petitioner has claimed that he purchased a plot of land, measuring 17.5 lessas, covered by Dag no. 458 & Patta no. 248, situated at Lakhipur Town, Mouza – Lakhipur, District – Goalpara [‘the subject-plot’, for short] by a registered sale deed no. 498 dated 18.06.2015 from its erstwhile owners and took possession of the subject-plot thereafter. The subject-plot came to be mutated in the name of the petitioner by an order passed by the respondent no. 4 in Mutation Case no. 1499/2015-2016 and accordingly, the revenue records pertaining to the subject-plot stood corrected in favour of the petitioner. It is the projected case of the petitioner that the total area of land falling under Patta no. 248 is 4 kathas and 10 lessas. Out of the said total areas of Patta no. 248, the petitioner purchased 17.5 lessas and the remaining land of the said patta belongs to the private respondents and others. It is the case of the petitioner that on field verification, the actual area of land under his possession found less than 17.5 lessas. From the application stated to have been submitted by the petitioner before the respondent no. 3 on 11.11.2020, it is noticed that the petitioner had

alleged therein that the remaining area of land are in possession of one Nagina Nunia and Rajendra Chauhan [the respondent no. 12].

3. Mr. Hoque, learned counsel for the respondent nos. 6 – 9 has submitted that the respondent nos. 6 – 11 are legal representatives of Nagina Chauhan.

4. From the above facts and circumstances which have emerged from the projection of the petitioner and the case records, it is demonstrated that a part of the subject-plot purchased by the petitioner, is allegedly under encroachment of the private respondents, without there being any allegation of collusion or connivance of any public authorities. In such view of the matter, this Court is of the considered view that the remedy sought herein by the petitioner under Article 226 of the Constitution of India is not a proper remedy. In such view of the matter, this writ petition is not entertained, reserving the liberty to the petitioner to avail appropriate remedy before the appropriate Court of law.

JUDGE

Comparing Assistant