

GAHC010004832012



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

Case No. : WP(C)/1977/2012

SMT. INDUMATI LASKAR
D/O GHANAKANTA LASKAR, NABAGRAHA PATH, NEAR NABAGRAHA
TEMPLE, SILPUKHURI, GHY-3

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE COMMISSIONER, URBAN DEVELOPMENT
DEPARTMENT, DISPUR, GHY-6

2:THE COMMISSIONER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GHY-5

3:THE CHIEF EXECUTIVE OFFICER
G.M.D.A.
BHANGAGARH
GHY-5

4:THE DY. COMMISSIONER
KAMRUPM
GHY-1

5:THE SUPERINTENDENT OF POLICE
KAMRUPM
GUWAHATI-1

6:THE OFFICER-IN-CHARGE
CHANDMARI POLICE STATION
CHANDMARI
GHY-3

7:MR. DIBYAJYOTI TALUKDAR
ALCARE DIAGNOSTIC AND RESEARCH CENTER
RAJGARH ROAD
BHANGAGARH
GHY-5

8:MR. RITUPAL SAIKIA
C/O SRI GIRIJA MAHON SAIKIA
DWARKA MATHURA PATH
BYE LANE NO.1
DISPUR
GHY-6

9:MR. APURBA KR. GOSWAMI
C/O RAMESH CH. GOSWAMI
RUPNAGAR
GHY-3

Advocate for the Petitioner : MR. B C DAS

Advocate for the Respondent : MR. D DOLEY (GA, ASSAM, R-1,4,5 & 6)

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

22.08.2023

Mr. B. C. Das, learned Legal Aid Counsel is present on behalf of the petitioner. Mr. H. Sarma, learned Addl. Sr. Govt. Advocate, Assam has appeared on behalf of the respondent Nos.1, 4, 5 and 6. Mr. S. Bora, learned Standing Counsel, GMDA is present on behalf of respondent Nos.2 and 3. None has appeared for the respondent Nos.7, 8 and 9 although the respondent No.7 was earlier represented by Mr. B. Sarkar, learned counsel.

It appears that the respondent Nos.7 and 8 are the owners of a plot of land situated on the western side of the land of the writ petitioner. The petitioner's land is situated near the Nabagraha Temple at Guwahati and is

covered by Dag No.230 (New) of K. P. Patta No.1 of Revenue Village- Kharghuli, Mouza- Ulubari, Kamrup, Assam. According to the petitioner, she had demolished a portion of her western boundary wall so as to facilitate construction of house by the respondent Nos.7 and 8 in their adjoining plot of land. However, taking advantage of the absence of the petitioner, the agent of the respondent Nos.7 and 8 i.e. the respondent No.9 had broken down almost the entire boundary wall thus causing serious financial loss and injury to the petitioner.

The petitioner had submitted a representation dated 18.05.2011 before the GMDA authorities ventilating her grievance in the matter but since no action was taken by the authorities on her representation, the present writ petition has been filed.

Mr. Das, learned Legal Aid Counsel submits that the petitioner has already re-constructed the boundary wall and at this stage she is only seeking monetary compensation from the respondent Nos.7, 8 and 9 for loss and injury suffered by her due to illegal demolition of the boundary wall.

Mr. H. Sarma, learned Senior Govt. Advocate, Assam and Mr. S. Bora, learned Standing Counsel, GMDA have submitted that this is purely a private dispute between the petitioner and her neighbours i.e. the respondent Nos.7 and 8. Since the boundary wall has already been re-constructed, at this stage, there is no scope for the GMDA authorities to interfere in the matter.

After going through the materials on record and after hearing the submissions made by the learned counsel for the parties, this Court is also of the opinion that the issue agitated in this writ petition is nothing but the fall out of a private dispute between the petitioner and the respondent Nos.7 and 8.

Therefore, the basic relief sought for in this writ petition, which is for issuing a direction upon the respondent Nos.2 and 3 to consider the representation dated 18.05.2011 submitted by the writ petitioner, cannot be granted to her at this point of time, in the facts and circumstances of the case. Moreover, there is no prayer for payment of compensation to the petitioner in the writ petition. Even if such a prayer was made, even then, the same could not have been entertained by the writ Court in exercise of jurisdiction under Article 226 of the Constitution of India. Such a dispute can be adjudicated only by the Civil Court in an appropriate proceeding. Therefore, this Court is of the opinion that there is no scope for the writ Court to grant relief as prayed for, in this writ petition.

As such, this writ petition stands disposed of by granting liberty to the petitioner to approach the Civil Court seeking appropriate relief, if so advised.

No order as to cost.

JUDGE

Comparing Assistant