

GAHC010009232013



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

Case No. : WP(C)/4330/2013

LAKSHMINATH BEZBARUAH PUTHIBHARAL SITUATED AT METUAKUCHI
GEJIA CHOUCK and ANR.

BARPETA, P.O. and P.S. BARPETA, ASSAM, REPRESENTED BY ITS
PRESIDNET SRI SATYANATH PATHAK

2: SATYANATH PATHAK
S/O LT. LOHIT NATH PATHAK
R/O METUAKUCHI GAJIA CHOUK
GALIAHATI
BARPETA
P.O. and P.S. BARPETA
DIST- BARPETA
ASSA

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GHY-6

2:DY. COMMISSIONER
BARPETA
DIST- BARPETA
ASSAM

3:THE CIRCLE OFFICER
BARPETA REVENUE CIRCLE
DIST- BARPETA
ASSA

Advocate for the Petitioner : MR.T J MAHANTA

Advocate for the Respondent : MR.A NATH

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 03/10/2023

Heard Mr. A. Baruah, learned counsel for the writ petitioners. Also heard Ms. G. Hazarika, learned Standing Counsel, Revenue and DM Department, Assam, appearing for the respondent no.1. Ms. S. Baruah, learned Government Advocate, Assam, has appeared on behalf of the respondent nos. 2 & 3.

The writ petitioner no. 1 herein claims to be a Society registered under the Societies Registration Act, 1860 and the petitioner no. 2 is the President of the said Society. The petitioner no. 1 society is operating a Library in the name of "Lakshminath Bezbaruah Puthibharal" in the district of Barpeta, Assam.

Aggrieved by the eviction notice dated 07/07/2012, the petitioners have approached this Court by filing this writ petition *inter-alia* contending that the petitioner no. 1 is operating a "public library" over a plot of Government land and there is already a proposal for allotment of the land in favour of the petitioner no.1 society. However, when the said process was yet to be completed, the impugned eviction notice dated 07/07/2013 (Annexure-7 to the writ petition) was issued directing the petitioners to vacate the land within 15 (fifteen) days, failing which, there would be forcible eviction. Hence, this writ petition.

It appears from the materials available on record that the petitioner no.1 society has been in occupation of a plot of land measuring 2 Katha 3 Less, covered by Dag No. 1622 of village Sahar Barpeta, under the Mouza-Barpeta in the district of Barpeta since past several years. The land is admittedly "sarkari land". Therefore, unless there is allotment of the land in favor of the petitioner no.1 society, it would be open for the Revenue authorities to seek their eviction from the land.

However, before doing so, since a Library has been established over the said plot of land and the same has been in operation since past several years, the petitioner no.1 society would be entitled to be heard in the matter, more so, since there is a claim by the petitioners that there is already a proposal to allot the land in favour of the Library. In other words, in the facts of the case, this Court is of the opinion that the respondents would be under an obligation to comply with the rule of *audi alteram partem* before carrying out the eviction process. However, the same has admittedly not been done in this case.

Situated thus, without expressing any opinion on the merit of the matter, I dispose of the writ petition by setting aside the impugned notice dated 07/07/2013. This order would, however, not come in the way of the respondent nos. 2 and 3 in serving a fresh notice upon the petitioners, if so advised, calling upon them to show cause as to why they should not be evicted from the land.

If such a notice is served upon the petitioners, they may be granted reasonable time to submit their reply and be also heard in the matter. It is only thereafter, further action, if any, be initiated in the matter by following the due process of law.

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

JUDGE

sukhamay

Comparing Assistant