

GAHC010011272013



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

Case No. : WP(C)/5686/2013

SMTI PRITI BORA
W/O- SRI DILIPESWAR BORA, R/O- NA-ALI, BANGALPUKHURI, JORHAT,
ASSAM, PIN- 785001, REP. BY HER POWER OF ATTORNEY HOLDER SRI
BULEN CHANDRA BORGOHAIN, R/O- USHA NAGAR, DISPUR, GHY- 6.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, DEPTT.
OF REVENUE, DISPUR, GHY- 6.

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF REVENUE
DISPUR
GHY- 6.

3:THE DY. COMMISSIONER
KAMRUP M
GUWAHATI
DIST.- KAMRUP M
ASSAM
PIN- 781001.

4:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
GHY- 28.

5:KAMAL BANIKYA
S/O- LT. TARUNI CH. BANIKYA
SURVEY
BELTOLA
P.S.- BASISTHA

GHY- 28.

6:RANJEET SARMA
S/O- LT. NAREN SARMA
R/O- HOUSE NO. 28
NEAR SRI SRI DHAM BRINDABAN ASHRAM
RUPNAGAR
GUWAHATI
ASSAM- 781032

Advocate for the Petitioner : MR.R J BORDOLOI

Advocate for the Respondent : MR.U B SARMAR-5

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

03.01.2023

Heard Shri P Talukdar, learned counsel for the petitioner as well as Ms. G Hazarika, learned Standing Counsel, Revenue Department for the respondent nos. 1 and 2. Also heard Shri N Goswami, learned State Counsel, Assam for the respondent nos. 3 and 4 whereas Shri UB Sharma, learned counsel is present for the respondent no. 5. Shri D Das, learned Senior Counsel assisted by Shri S Khound, learned counsel appears for the respondent no. 6.

2. The petitioner claims to be an owner and possessor of a plot of land measuring 1 katha 7 lechas covered by Dag No. 46 (old), 8 (new), PK Patta No. 37 (old), 43 (new) of Village-Rukminigaon, Mouza-Beltola. The petitioner alleges to have purchased the said plot from its original vendor vide registered sale deed on 14.02.1997 after obtaining necessary permission. The petitioner claims to be in possession of the aforesaid land by erecting bamboo fencing. However, the respondent no. 5 had tried to dispossess the petitioner from the said plot of land for which, the petitioner had instituted Title Suit No. 986/2006 along with which Misc. (J)

Case No. 523/2006 was also filed. The said title suit was filed for declaration of right, title and interest and for injunction against the respondent no. 5. The learned Court of the Munsiff No. 2 vide order dated 13.12.2007 had passed an order of *status quo*. On 09.09.2013, notice was issued to the co-pattadars by the Circle Officer, Dispur Revenue Circle.

3. In this writ petition, the petitioner is aggrieved by the inaction of the respondent authorities for demarcation of the said plot of land.

4. Shri Talukdar, learned counsel for the petitioner submits that in the meantime, the respondent no. 5 had approached the Assam Board of Revenue which, vide order dated 05.09.2008 had allowed the appeal by setting aside the impugned order dated 11.12.2007 and also allowed the chitha mutation in favour of the respondent no. 3.

5. On the other hand, Shri Das, learned Senior Counsel for the respondent no. 6 submits that the very basis on which the present case has been instituted, namely, the order of *status quo* dated 13.12.2007 has, long been vacated and the suit itself has been dismissed and therefore, there is no basis to continue with this case which pertains to a prayer for demarcation. He further submits that the land of the respondent no. 6 is distinct and different plot of land and in this connection, the learned Senior Counsel has referred to a report dated 22.10.2013.

6. Shri Sharma, learned counsel for the respondent no. 5 has also submitted that in fact, there is no live cause of action to be adjudicated upon by this Court because of the development which has already been recorded/observed above.

7. Shri Goswami, learned State Counsel as well as Ms. Hazarika, learned State

Counsel, Revenue Department also endorse the submissions made by Shri Das, learned Senior Counsel for the respondent no. 6 and submit that the writ petition, at this stage, is not even maintainable.

8. After hearing the parties and on perusal of the records, this Court is of the view that the foundation of the present writ petition was the order of *status quo* dated 13.12.2007 passed in Misc. (J) Case No. 523/2006 arising out of Title Suit No.986/2006 by the present petitioner as plaintiff. However, it is not in dispute that the aforesaid TS No.986/2006 has been dismissed by the learned Court of Munsiff No. 2, Kamrup at Guwahati and therefore, the entire relief sought for cannot even be adjudicated.

9. In that view of the matter, the instant writ petition is dismissed.

10. It is needless to state that interim order passed on 27.09.2013, which was extended from time to time, stands vacated.

JUDGE

Comparing Assistant