

GAHC010014582023



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

Case No. : WP(C)/508/2023

AFTAB UDDIN AHMED
S/O- LT. MAHAMMAND HUSSAIN,
R/O- ADP ROAD, CHRISTIAN PATTY,
NAGAON, P.O- SADAR,
P.S.- NAGAON, DIST.- NAGAON,
ASSAM, PIN- 78201.

VERSUS

THE STATE OF ASSAM AND 6 ORS
DEPARTMENT OF MUNICIPALITIES
REPRESENTED BY THE SECRETARY AND COMMISSIONER
MUNICIPALITY DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER OF NAGAON
ASSAM
PIN- 782001.

3:THE SUPERINTENDENT OF POLICE
NAGAON
ASSAM
PIN- 782002.

4:THE EXECUTIVE OFFICER
NAGAON MUNICIPAL BOARD
NAGAON
ASSAM
PIN- 782001.

5:TAPAS VOWEL
S/O- UNKNOWN

R/O- SAIKIA MARKET
M.D. ROAD
NAGAON

MEDICARE DISTRIBUTION

NEAR ARA BUS STATION

P.S.- NAGAON
DIST.- NAGAON

ASSAM
PIN- 782001.

6:SUBRATA DUTTA
R/O- KACHALUKHOWA
KUSHAL KOWAR PATH

P.O.- CHOTO HAIBOR (NEAR KULK NATH MANDIR)

P.S.- SADAR

DIST.- NAGAON
ASSAM
PIN- 782001

Advocate for the Petitioner : MD. H BHUYAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 03-02-2023

Heard Mr. A. Mohammad, learned counsel for the petitioner and Mr. A. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent nos. 1 – 4.

2. The petitioner has approached this Court by this writ petition under Article

226 of the Constitution of India invoking the extra-ordinary jurisdiction of this Court to seek relief in the form of a direction to the respondent authorities to take necessary action against the respondent no. 6 and the respondent no. 7 to stop the construction of a four-storeyed RCC building, carried out presently by the respondent no. 6 and the respondent no. 7 respectively on the ground that the construction is illegal.

3. From the case papers, it transpires that the construction of the building is going on in a locality within the areas which fall under Ward no. 11, A.D.P. Road under Nagaon Municipal Board. The petitioner has claimed that he is also a permanent resident of Ward no. 11, A.D.P. Road, Nagaon. It is projected that in the year 2020, the respondent no. 6 and the respondent no. 7 had started construction of one RCC building in front of the house of the petitioner. It is alleged that because the on-going construction, there are constant movements of heavy vehicles in the vicinity. The petitioner has further alleged that the construction of the building are in violation of building By-laws but the petitioner has not specifically averred as to what provisions of the By-laws have been violated by the construction of the RCC building by the respondent no. 6 and the respondent no. 7. The petitioner has referred to a letter written by the respondent no. 4 to the respondent no. 6 and the respondent no. 7 on 09.06.2022 to carry out the construction of the building as per norms, else necessary action would be taken against them. It is the case of the petitioner that despite the letter dated 09.06.2022, the said two private respondents have been carrying out the construction of the building unauthorisedly till date and in that respect, the petitioner stated to have submitted a representation before the respondent no. 4 on 19.10.2022.

4. On perusal, it is noticed that the representation, stated to have been submitted by the petitioner before the respondent no. 4 and annexed at Page no. 15 as Annexure-4 to the case papers, neither bears any signature of the petitioner nor bears any acknowledgement of receipt by the office of the respondent no. 4.

5. Having gone through the materials and the averments made in the writ petition and the documents annexed thereto, this Court is of the view that the petitioner has not been able to show how he is aggrieved by the construction carried out by the respondent no. 6 and the respondent no. 7. It is also not reflected from the pleadings in the writ petition as regards the distance between the residence of the petitioner and the plot of land where the alleged unauthorised construction is being carried out. As the petitioner has not been able to establish as to how he is aggrieved, this Court is of the view that the instant writ petition is bereft of details to be entertained. In such view of the matter, the writ petition is not entertained. It would, however, be open to the petitioner to seek proper relief, if permissible under the law, with cogent materials about his status as a person aggrieved qua the building in question. No cost.

JUDGE

Comparing Assistant