

GAHC010040312019



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

Case No. : WP(C)/1289/2019

CENTRAL BOARD OF TRUSTEES AND ANR.
EMPLOYEES PROVIDENT FUND ORGANIZATION, REP. BY THE REGIONAL
PROVIDENT FUND COMMISSIONER, N.E. REGION, G.S. ROAD,
BHANGAGARH, GUWAHATI-5.

2: THE REGIONAL PROVIDENT FUND COMMISSIONER-I

EPF ORGANIZATION
NE REGION
BHANGAGARH
G.S. ROAD
GUWAHATI-5

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE SECRETARY, REVENUE DEPARTMENT, DISPUR, GUWAHATI,
ASSAM.

2: THE DEPUTY COMMISSIONER
KAMRUP(METRO)
LAND SETTLEMENT BRANCH
GUWAHATI
ASSAM.

3: THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
BASISTHA CHARIALI
GUWAHATI
ASSAM

For the Petitioner (s) : Mr. P.K. Roy, Advocate.
Mr. S.K. Chakraborty, Advocate.

For the Respondent (s) : Mr. S. Baruah, Advocate.

Date of hearing & Judgment : **27.09.2023**

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
JUDGMENT AND ORDER(ORAL)

The instant writ petition has been filed by the Petitioners seeking a direction upon the Respondents to act in terms with the directions passed by this Court in W.P.(C) No.636/1999 and to hand over the vacant possession of the land measuring 10 bighas covered by Dag No. 1, 2, 52, 53, 54 (Old), 2, 5 (New) of Village No. 2 Basistha under Beltola Mouza at Guwahati to the Petitioner by evicting the illegal occupiers and to make necessary correction in the relevant revenue records by entering the name of the Petitioner No. 2 in place of 'Sarkari' land as per the order of the Government of Assam communicated vide Letter dated 19.9.1985.

2. From a perusal of the materials on record, it transpires that on 19.9.1985, the Deputy Secretary to the Government of Assam, Revenue Settlement Department had directed the Deputy Commissioner for transfer of 'Sarkari' land measuring 10 bighas covered by Dag No. 1 & Dag No. 53 of Village Basistha under Beltola Mouza to the Regional Provident Fund Commissioner N.E. Region for

construction of office building and staff quarters on realization of a premium at 100% of the market value fixed at Rs.61,800/- per bigha together with capitalized land revenue for 25 years at Rs.375.00 and local tax of Rs.93.75. It was further directed that the land may be handed over to the authority of the Regional Provident Commissioner, N.E. Region and necessary records may be corrected after realization of the due premium.

3. It further reveals that pursuant to the said order, the Petitioners deposited the said amount of Rs.6,18,000/- as well as Rs.468.75/- in the Head of Accounts. Subsequent thereto, vide the Communication dated 25.6.1986, the possession of the land was handed over for the purpose of the construction of the Office of the Regional Provident Fund Commissioner on 28.6.1986. It is also seen that on the basis of the order dated 19.9.1989, 1 bigha of land under Dag No.1 and 9 bighas of land under Dag No. 53 were inserted in the remark column of the Chitha as reserved for the Office of the Regional Provident Commissioner as per allotment.

4. From the records, it is also seen from the records that certain persons filed a writ petition seeking a direction upon the Respondent State Authority to give settlement of the Government land under their occupation. The said writ petition was registered as W.P.(C) No.636/1999. The claim of the said Petitioners therein was in respect to 12 bighas of land covered Dag No. 53 of Village No. 2, Basistha

under Beltola Mouza for the last 20 years. In the said writ proceedings, the Petitioners herein were the Respondent No. 6 & 7 and it was informed to the Court that they had duly paid the premium. The said writ petition was disposed of vide an order dated 07.02.2006 with an observation that the Respondent Authorities shall be entitled to evict the Petitioners of the said proceedings by following the due procedure established by law, if not already followed. It was further observed that the Respondent Authorities may also consider adjustment of the Petitioners therein in any manner in any nearby land, if the same was possible on their part.

5. It also transpires from the records that the Petitioners herein have been approaching the Respondent Authorities asking them to evict the illegal encroachers from the land which have been allotted to the Petitioners and in respect to which the Petitioners have duly paid their premium. It is relevant to note herein that though the Government of Assam had granted the allotment to the Petitioners herein but till date no settlement have been made in favour of the Petitioners by issuance of the periodic lease which is the requirement as per the Settlement Rules. The Respondent Authorities have turned a cold shoulder to the various requests made by the Petitioners herein and as such, the Petitioners have been compelled to approach this Court by filing the instant writ petition.

6. It reveals from the records that pursuant to the issuance of

notice by this Court, the Circle Officer, Dispur Revenue Circle had filed an affidavit. It is noteworthy herein to mention that the affidavit filed by the Circle Officer, Dispur Revenue Circle does not refute the statements and allegations made in the writ petition. The said affidavit also does not disclose what steps the Respondent Revenue Authorities have taken pursuant to the requests made by the Petitioners. In the said affidavit, it was mentioned that as per the available office records of revenue village Basistha under Beltola Mouza, the Dag No. 1, 2, 52, 53 and 54 are old dags. It was stated that from the records of the aforesaid Village and Mouza the new Dag Nos. 4, 5 and 6 have originated from the aforesaid Old Dag Nos. 1, 2, 52, 53 and 54. It was further mentioned that during field verification of the LR staffs, it was seen that presently approximately 71 numbers of families are residing on the land covered by Dag Nos. 4, 5 and 6 and constructed residential houses thereon. It was further mentioned that in this area, water treatment and supply plant, public well, electricity pole, Lord Shiva Temple, meeting hall, church etc. were seen. During field verification, possession of the Petitioners were seen on the land covered by Dag No. 4, 5 and 6 (new) of the aforesaid village and mouza.

7. It is also seen from the records that the Petitioners have filed an affidavit-in-reply to the affidavit by the Respondent No. 3. In the said affidavit-in-reply, it was mentioned that the Respondent No. 3 had

only given the present status of the land stating that the land measuring 10 bighas were found to be occupied by 71 numbers of families by constructing residential houses thereon. But the said position of the land being occupied and encroached by others have already been found by this Court way back in the year 2006. It was further mentioned that the Respondent Authorities had in utter disregard to the order passed by this Court on 07.02.2006 in W.P.(C) No. 636/1999 did not handover the possession of the land to the Petitioner inspite of the Petitioner representing before the Respondent Authorities time and again. It was further mentioned that the Circle Officer, Dispur Revenue Circle had earlier written a letter to the Petitioner on 3.8.2018 and requested the Petitioners to provide the logistics and man power for the purpose of carrying out the eviction.

8. I have heard the learned counsels for the parties and perused the materials on record.

9. At the outset, this Court expresses that the attitude and the manner of functioning of the Revenue Department of the Government of Assam, the Deputy Commissioner, Kamrup(Metro) as well as the Circle Officer, Dispur Revenue Circle, shocks and surprises this Court. The Petitioner No. 1 herein is the Central Board of Trustees of Employees' Provident Fund Organization an organization constituted under Section 5A of the Employees' Provident Fund Organization and Miscellaneous Provisions Act, 1952. From a perusal of the Act of 1952,

it would be seen that the Authority constituted under the provisions of Section 5A of the Act of 1952 has to perform varied functions as regards the provident funds, pension fund and deposit link insurance fund for employees in factories and other establishments. The allotment made on 19/9/1985, by the Governor of Assam was for the purpose of construction of the office building and the staff quarters of the Regional Provident Fund Commissioner, N.E. Region. The said land was allotted by the Government of Assam as far back as in the year 1985 for the purpose of constructing the office and staff building of the Regional Provident Fund Commissioner, N.E. Region. But for the reasons best known, the Revenue Department of the Government of Assam, the Deputy Commissioner, Kamrup as it then was [now Kamrup(Metro)] as well as the Circle Officer, Dispur Revenue Circle did not care to take any action pursuant to the allotment order as well as the payment of the premium by granting of the settlement in favour of the Petitioners by issuance of the periodic lease. As already stated hereinabove, there is even nothing in the affidavit filed by the Circle Officer, Dispur Revenue Circle providing the reasons as to why the settlement was not granted to the Petitioners. It is also noteworthy to mention that even during the proceedings pending before this Court i.e. W.P.(C) No.636/1999, the Respondent Authorities had admitted the stands of the Petitioners herein who were the Respondent Nos. 6 & 7 therein that the said land was allotted and reserved for the

Petitioners herein and it was for that specific reasons this Court had while disposing the writ petition did not allow the writ petition rather permitted the Respondents to evict the Petitioners of the said writ petition by following the procedure.

10. This Court further finds it relevant to take note of that on 27.2.2019, notice of motion was issued and the Respondent Authorities have not even cared to file a detail affidavit in the matter except the affidavit of the Circle Officer, Dispur Revenue Circle to that effect that the land in question which was allotted to the Petitioners is in occupation of other persons. This very aspect of the matter was very much there in the year 2006 and it is apparent from the order passed by this Court on 07.02.2006 in W.P.(C) No. 636/1999, wherein this Court observed that the Petitioners in the said writ proceedings can be evicted by the Respondents by following the due procedure of law, if not already followed.

11. From the above analysis, it appears that the Respondents in the Revenue Department are least bothered to comply/honour the order dated 19.9.1985 thereby issuing the settlement in favour of the Petitioners in respect to the land. Under such circumstances, this Court directs the Commissioner and Secretary to the Government of Assam, Revenue and Disaster Management Department to take an appropriate decision as to whether the land which was allotted to the Petitioners vide the Communication dated 19.9.1985 can be settled

with the Petitioners in the present circumstances. In the eventuality it is decided that taking into consideration that the encroachers cannot be removed or in the public interest, it would not be possible to evict the encroachers, the Commissioner and Secretary, Revenue and Disaster Management Department shall decide as to whether any other land could be allotted/settled in favour of the Petitioners keeping in mind that the Petitioners Organisation discharges important duties for the purpose of giving effect to the provisions of the Act of 1952.

12. It is further made clear that if the Revenue and Disaster Management Department of the Government of Assam is of the opinion that the land which was allotted to the Petitioners cannot be settled or no other land can be allotted in the present circumstances, the Revenue and Disaster Management Department of the Government of Assam shall refund the amount deposited by the Petitioner within 4 months from the date a certified copy of the instant judgment is served upon the Commissioner and Secretary of the Government of Assam, Revenue and Disaster Management Department. This Court further directs that the said amount which the Petitioners had deposited shall be refunded alongwith interest @ 12% per annum from the date of deposit till the date of payment.

13. It is further directed that the entire exercise be completed within 4 months from the date of service of the certified copy of this order to

the Respondent No. 1. It is made clear that in the eventuality it is decided that no land can be settled with the Petitioners, the amount as directed to be refunded shall be disbursed to the Petitioners within this 4 months and failing which, the Petitioners shall apart from other remedies available to the Petitioners for non-compliance with the orders passed by this Court, would be further entitled to an additional interest of 6% above the interest as directed to be paid, till realisation.

14. With the above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant