

GAHC010029502023



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

Case No. : WP(C)/1537/2023

MAHABHAIRAB SARBAJANIN KRISHAK PUM SAMITTEE
REPRESENTED BY THE SECRETARY
DIGANTA SINGHA
AGE-49 YEARS
S/O LATE PADMAKANTASINGHA
R/ VILL-KALIBARI CHUK
P.O.-KALIBARI
DIST-SONITPUR
ASSAM
PIN-784001

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-06

2:DIVISIONAL FOREST OFFICER
NAGAON WILDLIFE DIVISION
AS WELL AS ASSISTANT DIRECTOR
KAZIRANGA TIGER PROJECT
KATIMARA
NAGAON
PIN-782002

3:REVENUE DEPARTMENT
GOVT. OF ASSAM
REPRESENTED BY THE SECRETARY
DISPUR
GUWAHATI-06

4:THE DEPUTY COMMISSIONER

TEZPUR
SONITPUR
PIN-784001
5:THE CIRCLE OFFICER
TEZPUR REVENUE CIRCLE
TEZPUR
PIN-784001

For the Petitioner(s) : Mr. P. Mahanta, Advocate

For the Respondent(s) : Mr. I. Borthakur, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 19.12.2023

1. The instant writ petition has been filed challenging the order dated 09.03.2023 passed by the Respondent No.2 whereby the prayer of the Petitioner to harvest the remaining crops from the land was rejected as well as for sufficient compensation to the members of the Petitioner's society on the ground of demolishing their dwelling houses and standing orchard and other valuable trees which the Petitioner reasonably assessed at Rs.50,00,000/-.
2. It appears from the records that vide a detailed order dated 27.04.2023, the Co-ordinate Bench of this Court had issued notice. However, no interim order was passed taking into account the preliminary objections raised to the maintainability of the writ petition inasmuch as the Petitioner's society is not a registered society. Further to that, this Court had also rejected the interim directions to harvest the crops. The Petitioner thereupon being aggrieved approached the Division Bench of this Court in Writ Appeal No.206/2023.
3. When the matter was initially taken up by the Division Bench of this Court,

a direction was issued to the concerned Respondent Authorities to apprise the Division Bench of this Court as to the present status of the crops in question. Thereupon, when the matter was listed before the Division Bench of this Court on 27.06.2023, it was duly intimated to the Court that the entire crops were destroyed in view of the floods and it is under such circumstances, the Writ Appeal was closed giving the liberty to the Petitioner to approach the appropriate forum for the purpose of compensation.

4. Today, when the matter has been taken up by this Court, a question arose as to whether this Court can adjudicate as regards the factum of compensation. It is the opinion of this Court that for adjudicating the factum of compensation, various aspects of the matter would require to be taken into account i.e. the investment so made by the Petitioner, the loss which has occasioned to the Petitioner and further the profit, if the Petitioner would have made out of the standing crops. All these aspects are questions of facts which would require a detail examination on the basis of evidence. It is the opinion of this Court that such intricate adjudication of the facts would not be permissible under Article 226 of the Constitution.

5. Be that as it may, this Court however observes that if the Petitioner or its members are aggrieved by the actions of the Respondent Authorities for violation to the rights of the Petitioner and seeks compensation, the Petitioners or its members would be well advised to approach the appropriate forum wherein the adjudication of facts would be permissible.

6. Accordingly, this Court therefore is not inclined to issue any writ as has been sought for in the instant writ petition. However, liberty is given to the Petitioners or its members to approach the appropriate forum wherein the facts as regards the question of compensation can be adjudicated upon. This Court

has not decided as to whether the Petitioner Society can maintain the present writ petition or would be able to maintain a suit. The Authority/Court before whom such proceedings are filed would be at liberty to decide the same.

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

JUDGE

Comparing Assistant