

GAHC010079562018



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

Case No. : WP(C)/2474/2018

GOBIN BURAGOHAIN
S/O. DIMBESWAR BURAGOHAIN, VILL. BARPATORIA GAON WARD NO.1,
P.O. AND P.S. DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMM. AND SECY. DEPTT. OF REVENUE, DISPUR, GHY.

2:DEPUTY COMMISSIONER
DHEMAJI

DHEMAJI.

3:THE CIRCLE OFFICER

DHEMAJI CIRCLE
DHEMAJI

For the Petitioner	: Dr. R. Sarmah, Advocate.
For the Respondents	: Ms. S. Sarma, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

09.08.2023

The instant writ petition has been filed by the Petitioner

challenging Notice dated 09.04.2018 bearing No.D.J.C. 15/BE-BADHAKAI/2018/253 issued by the Circle Officer, Dhemaji.

2. The facts of the instant case as could be discerned from the writ petition is that the Petitioner is the owner of a plot of land measuring 4 bighas 2 kathas 10 lechas covered by Dag No.337 of Patta 76 of Village - Moumari, Lot No. 6 within Mouza Dhemaji in the District of Dhemaji. This aspect of the matter can be seen from Annexure-A to the writ petition. It is the case of the Petitioner that the land of the Petitioner was initially a part of Dag No. 46 which was a Government land. However subsequently, the Petitioner was issued the Khiraj Myadi Patta in respect to the aforementioned land. It is the further case of the Petitioner that on 09.02.2018 a notice was issued by the Circle Officer, Dhemaji stating interalia that the Petitioner was illegally occupying Government land by raising wall in Dag No. 46 and the Petitioner was directed to remove all his movable and immovable properties as per the said notice. The said notice has been challenged by the Petitioner on the ground that the Respondent Authorities and more particularly the Circle Officer, Dhemaji are taking steps to evict the Petitioner from his settled land.

3. It appears from the records that on 23.04.2018 this Court issued notice and further directed that the Petitioner shall not be evicted from the land measuring 4 bighas 2 kathas 10 lechas in Patta No. 76 and if the boundary wall is constructed over the said plot of land, the

same shall not be demolished. The writ petition has been pending since then.

4. Today when the instant writ petition was taken up, Ms. S. Sarma, the learned counsel appearing on behalf of the Respondent Nos. 2 & 3 have placed before this Court an instruction issued to her by the District Commissioner, Dhemaji. In the said instructions, it was categorically mentioned that the Petitioner had encroached upon more land than recorded in his name. It was further mentioned that the eviction notice was served against the excess land occupied in Dag No. 46 and not against the Myadi land of the Petitioner. It was further mentioned that the Petitioner was issued Myadi Patta No. 76 against Dag No. 337 under Village- Moumari but the Petitioner is unlawfully occupying land in Dag No. 46 and 56 apart from his Myadi land of the same village. The said instructions so submitted during the course of hearing by the learned counsel appearing on behalf of the Respondent Nos. 2 & 3 is kept on record and marked with the letter "X".

5. This Court have duly heard the learned counsels for the parties. From a perusal of the materials on record, it transpires that the Petitioner has rights over a plot of land measuring 4 bighas 2 kathas 10 lechas covered by Dag No.337 of Patta 76 of Village - Moumari, Lot No. 6 within Mouza Dhemaji in the District of Dhemaji. However, Petitioner cannot claim any right over other lands more so,

Government lands unless settled in accordance with law. Therefore, the Petitioner has no right to remain in possession in any other land other than the land so settled in his name, the details of which are mentioned above.

6. Taking into account the specific stand taken by the District Commissioner, Dhemaji to the effect that the Respondent Authorities shall not disturb the possession of the Petitioner in respect to the land settled with the Petitioner but their actions is against the illegal occupation of the Petitioner in respect to other Govt. lands in Dag No. 46 & 56, this Court disposes off the instant writ petition with a direction upon the Respondent Authorities and more particularly the Respondent Nos. 2 & 3 not to disturb the Petitioner's possession in respect to the land measuring 4 bighas 2 kathas 10 lechas covered by Dag No.337 of Patta 76 of Village - Moumari, Lot No. 6 within Mouza Dhemaji in the District of Dhemaji. It is made clear that the Respondent Authorities shall be a liberty to take such actions as per the provisions of law to evict the Petitioner in respect to the any other land including Dag No. 46 and 56 other than the land settled in favour of the Petitioner, the details of which are mentioned hereinabove.

JUDGE

Comparing Assistant