

GAHC010090722023



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

Case No. : WP(C)/2422/2023

BHABEN HUKAI
SON OF LATE BHABAK HUKAI,
RESIDENT OF NOTUN GAON,
P.O.- TARADUBI, P.S.- BOITHALANGSHU,
WEST KARBI ANGLONG, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
REVENUE DEPARTMENT,
GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-06.

2:THE KARBI ANGLONG AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY

DIPHU
DISTRICT- KARBI ANGLONG

ASSAM
PIN- 782460.

3:SECRETARY
REVENUE DEPARTMENT
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
DISTRICT- KARBI ANGLONG
ASSAM.

4:ASSISTANT SETTLEMENT OFFICER
DIPHU CIRCLE

KARBI ANGLONG AUTONOMOUS COUNCIL

DIPHU
DISTRICT- KARBI ANGLONG
ASSAM.

5:RAJENDRA SARMA
SON OF LATE RAMCHARAN SARMA

RESIDENT OF PLAZA BEKARY

KHAT KHATI
P.O. AND P.S.- KHAT KHATI

DISTRICT- KARBI ANGLONG
ASSAM.

6:VIJAY KUMAR SHARMA
SON OF BANARASHI SHARMA

RESIDENT OF HOJAI MERAGONG GLORY ROAD

P.O. AND P.S.- HOJAI

DISTRICT- HOJAI

Advocate for the Petitioner : MRS. P BARMAN (BORKAKOTI)

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 19.06.2023

Heard Mrs. P. Barman, learned counsel for the petitioner, Ms. G. Hazarika, learned standing counsel for the Revenue Department, appearing for respondent no.1 and Mr. J. Chutia, learned standing counsel for the KAAC appearing for respondent nos. 2 to 4.

2. In view of the nature of order proposed to be passed, issuance of notice on the respondents including private respondent nos. 5 and 6 is dispensed with.

3. The case of the petitioner, in brief, is that he had purchased a plot of land measuring 5 bigha under village Khatkhati Bongrung Block no.1 under Mouza Borjan in the district of Karbi Anglong. The name of the petitioner was mutated in respect of the said land by order dated 13.08.2018, passed by the Deputy Secretary, Revenue, KAAC. However, despite request made by the petitioner, the land was not demarcated by the Revenue authorities of the KAAC.

4. It appears that a notice dated 09.01.2020 was issued by the Assistant Settlement Officer, KAAC and such notice was challenged by the respondent no.5 herein, namely, Rajendra Sharma. This Court after hearing the parties, by an order dated 10.02.2020 disposed of the writ petition by directing the Principle Secretary, KAAC to pass appropriate orders after hearing the parties.

5. The learned counsel for the petitioner has submitted that several representations were submitted before the Assistant Settlement Officer, Diphu for demarcation. It is submitted that an enquiry was made by the Assistant Settlement Officer, Diphu and in the report dated 23.07.2021, it was stated that the respondent no.5 was in occupation of the land stated to have been purchased by the petitioner.

6. It is projected in this writ petition that the land purchased by the petitioner is covered by Dag No. 850/203 of KP Patta No. 505/206, whereas the land allegedly claimed by the respondent no. 5 is stated to be covered by Dag Nos. 68, 69, 129/272, 130/271 of Patta Nos. 15, 16, 45 and 46 of village

Khatkhati Bongrung under Mouza No.1 Borjan in the district of Karbi Anglong. Accordingly, in this writ petition it is prayed that the authorities of KAAC be directed to dispose of the representation of the petitioner and to demarcate the land purchased by the petitioner in the year 2018.

7. The learned standing counsel for the KAAC has produced a copy of order dated 24.05.2023 passed by the Principal Secretary, KAAC wherein it has been mentioned, amongst others, that as per the report submitted by the Assistant Settlement Officer, Diphu Revenue Circle, Sri Rajendra Sharma (respondent no.5) did not allow the Revenue staff to demarcate and partition the land covered by Dag No. 203 of village Khatkhati Bongrung Block no.1 and therefore, a direction has been issued to the said authority to demarcate the land measuring 5 bigha covered by Dag No. 203 and land measuring 1B-3K-18L covered by Dag No. 272 of village Khatkhati Bongrung Block no.1, Mouza Borjan marking the boundary on both the plot of land. Hence, it is submitted that in view of the order passed on 24.05.2023, this writ petition has become infructuous.

8. It appears that the Assistant Settlement Officer while proceeding with the prayer for demarcation has failed to consider the provision of Regulation 23 of the Assam Land and Revenue Regulation, 1886 which is under Part B of Chapter-III relating to survey and demarcation of land.

9. As already a direction vide order no. KAAC/Rev1364 Pt/2020/151 dated 24.05.2023, has been passed by the Principal Secretary, KAAC, Diphu, the Court is of the considered opinion that by keeping the matter pending before this Court would not serve any purpose and therefore, this writ petition stands disposed of by directing the Principal Secretary, KAAC, Diphu to follow up his

order dated 24.05.2023 and also to ensure that the Assistant Settlement Officer concerned, on whom the direction has been issued, shall strictly comply with the provisions of Regulation 23 of the Assam Land and Revenue Regulation, 1886 while carrying out the demarcation process.

10. With the aforesaid observation, this writ petition stands closed.

11. The petitioner shall produce a certified copy of this order before the respondent no.3 to bring it to his notice.

12. Instruction produced by the learned standing counsel for the KAAC is kept as a part of the record.

JUDGE

Comparing Assistant