

GAHC010097972021



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

Case No. : WP(C)/3187/2021

PHUKAN CHANDRA BOARA
S/O. LT. PREMESWAR BORA, R/O. NUMALI JALAH, MOUZA
SINDURIGHUPA, P.S. CHANGSARI, DIST. KAMRUP (R), GUWAHATI, ASSAM-
781006.

VERSUS

STATE OF ASSAM AND 7 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-781006.

2:THE DIRECTOR GENERAL OF POLICE

ASSAM
GUWAHATI
ULUBARI
GUWAHATI-781007.

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
REVENUE RELIEF AND DISASTER MANAGEMENT DEPTT.
DISPUR
GUWAHATI-781006.

4:THE DY. COMMISSIONER

KAMRUP (R)
AMINGAON
GUWAHATI-781031.

5:THE SUB-DEPUTY COLLECTOR

AMINGAON REVENUE CIRCLE
AMINGAON
GUWAHATI-781031.

6:THE CIRCLE OFFICER
KAMRUP (R)
AMINGAON REVENUE CIRCLE GUWAHATI-781031.

7:THE LAT MONDOL
KAMRUP (R)
AMINGAON REVENUE CIRCLE
GUWAHATI-781031.

8:THE OFFICER IN CHARGE
GAURIPUR POLICE STATION
AMINGAON
GUWAHATI-781031

For the petitioner (s) : Mr. T. Chakraborty, Advocate

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

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

28.08.2023

The instant writ petition has been filed by the petitioner challenging the notice dated 21.06.2021 and for a direction upon the respondent authorities not to evict the petitioner.

2. It appears from the records that the petitioner claims that he along with predecessor-in-interest have been residing upon a plot of a Government land since 1982 by constructing pucca permanent structures. The said plot of land admeasures 1 katha 5 lechas covered by Touzi No.338, Dag No.305 at Village-Numali Jalah, Mouza-Sindurighupa in the district of Kamrup (Rural). The petitioner also claims that he has submitted a representation on 01.08.2014 before the respondent No.5,

i.e. the Sub-Deputy Collector, Amingaon Revenue Circle, Amingaon pursuant to an action taken by the respondent No.7. It is the further case of the petitioner that no action was taken on the said representation. On the other hand, on 11.08.2019, the respondent Nos.6, 7 & 8 visited the lands in the possession of the petitioner and demolished a part of the residential building. It is under such circumstances that the petitioner filed the writ petition being WP(C) No.4033/2014 before this Court. In the said writ petition, there was an interim direction so passed that the petitioner should not be evicted from his property without following the due procedure of law. Subsequent thereto, the said writ petition was disposed of vide the order dated 18.02.2019 thereby directing the respondent authorities that the petitioner should not be evicted from the land under his possession without following the due process of law and without issuing notice under Rule 18 (3) of the Settlement Rules. Subsequent thereto, on 21.06.2021, a notice was issued by the Circle Officer, North Guwahati Revenue Circle wherein it has been mentioned that the petitioner encroached upon the Government land covered by Dag No.305 of Village Numali Jalah, Mouza-Sindurighupa under North Guwahati Revenue Circle and the petitioner was directed to appear before the Circle Officer, North Guwahati Revenue Circle on 30.06.2021 at 10:30 AM along with all relevant documents. The petitioner thereupon apprehending that he may be evicted, had filed the instant writ petition.

3. It appears from the record that this Court vide an order dated 29.06.2021 issued notice and further observed that the petitioner should appear before the Circle Officer on 30.06.2021, but the possession of the petitioner should not be disturbed without the leave of the Court.

Thereupon, the interim order passed earlier continued from time to time.

4. It reveals from the record that an affidavit-in-opposition was filed by the respondent No.4, i.e. the Deputy Commissioner, Kamrup (Rural), Amingaon. The affidavit was filed on 06.09.2021. It was mentioned that the said notice dated 21.06.2021 was issued by the Circle Officer, North Guwahati Revenue Circle only for the purpose of getting information under what capacity the petitioner has been illegally residing over the plot of the Government land. It was also mentioned that by issuing the notice to the petitioner dated 21.06.2021, the Office of the Deputy Commissioner, Kamrup (Rural) was not initiating steps for evicting the petitioner from his property as alleged. It was also stated that the petitioner is in unauthorized occupation of the Government land earmarked for public purpose which is covered by Rule 18 (2) of the Settlement Rules framed under Assam Land and Revenue Regulation, 1886. Under such circumstances, the respondent authorities had the authority to exercise the power under Rule 18 (2) of the Settlement Rules in the instant case. It was mentioned that keeping in view the order passed by this Court in WP(C) No.4033/2014, the notice dated 21.06.2021 was issued only for the purpose of conducting a hearing on unauthorized occupation of the petitioner on the Government land and it was not intended to be a notice for eviction by any stretch. It was further mentioned that the said Government land wherein the petitioner is in occupation along with the adjoining land were initially reserved for the Kamrup Deputy Commissioner Establishment. But later on, the said plots of land were allotted in the name of Bio-Tech Park, a Government of India Sponsored Scheme. There is also no denial in the affidavit-in-opposition that the

petitioner or his predecessor-in-interest had constructed any house over the said land in the year 1982.

5. From the above pleadings and upon hearing the learned counsels for the parties, it transpires that the notice dated 21.06.2021 which is impugned in the instant proceedings and on the basis which an apprehension had been created in the mind of the petitioner that he would be evicted was only a notice issued for the purpose of getting information as to under what capacity the petitioner has been occupying the Government land. This aspect of the matter is very clear from a perusal of the affidavit-in-opposition filed by the Deputy Commissioner, Kamrup (Rural).

6. Under such circumstances, it is the opinion of this Court that no interference is called for to the impugned notice dated 21.06.2021. Be that as it may, this Court further finds it relevant to observe before concluding that the respondent authorities shall be at liberty to take such steps as permissible under law by taking into account the order dated 18.02.2019 passed in WP(C) No.4033/2014. The interim order so passed on 29.06.2021 stands merged with this order taking into account the stand of the Respondents and liberty is granted to the Respondents aforesaid.

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

JUDGE

Comparing Assistant