

GAHC010104832021



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

Case No. : WP(C)/4890/2021

SAMIRAN BHATTACHARYYA AND 6 ORS
S/O LATE ROHINI CH. BHATTACHARYYA, R/O KALIBARI, PO. AND P.S.
TEZPUR, DIST. SONITPUR 784001

2: APURBA BHATTACHARJEE

S/O LATE J.C. BHATTACHARJEE
R/O KALIBARI
PO. AND P.S. TEZPUR
DIST. SONITPUR 784001

3: CHIRANJEET BHATTACHARYYA
S/O LATE ROHINI CH. BHATTACHARJEE
R/O KALIBARI
PO. AND P.S. TEZPUR
DIST. SONITPUR 784001

4: MRINMOYEE BHATTACHARYYA

W/O LATE DURGA C. BHATTACHARYYA
R/O KALIBARI
PO. AND P.S. TEZPUR
DIST. SONITPUR 784001

5: APARNA BHATTACHARYYA

W/O LATE GANGA CH. BHATTACHARYYA
R/O KALIBARI
PO. AND P.S. TEZPUR
DIST. SONITPUR 784001

6: GAURI BHATTACHARJEE
S/O LATE KALI CH. BHATTACHARJEE
R/O KALIBARI

PO. AND P.S. TEZPUR
DIST. SONITPUR 784001

7: TULSI CH. BHATTACHARJEE

S/O LATE KALI CH. BHATTACHARJEE
R/O KALIBARI
PO. AND P.S. TEZPUR
DIST. SONITPUR 78400

VERSUS

THE STATE OF ASSAM 4 ORS
TO BE REPRESENTED BY THE COMMISSIONER SECY., REVENUE AND
DISASTER MANAGEMENT, GOVT. OF ASSAM, DISPUR, GUWAHATI 5

2: THE DEPUTY COMMISSIONER

SONITPUR
TEZPUR
DIST. SONITPUR

3: THE CIRCLE OFFICER

TEZPUR SADAR REVENUE CIRCLE
TEZPUR
DIST. SONITPUR
PIN 784001

4: PULIN BHATTACHARJEE

S/O LATE UMA KANTA BHATTACHARJEE
R/O KALIBARI
P.O. AND P.S. TEZPUR
DIST. SONITPUR 784001

5: THE SUPERINTENDENT OF POLICE

SONITPUR
TEZPU

For the Petitioner(s) : Mr. B. Chakraborty, Advocate

For the Respondent(s) : Mr. A. K. Sharma, Advocate
: Mr. N. Goswami, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 17.10.2023

1. The instant writ petition has been filed by the Petitioners seeking a direction upon the concerned Respondent Authorities to carry out the demarcation of the land measuring 24 Bighas 4 Kathas 18 Lechas which is covered by K.P. Patta No.105 of different Dag Nos. 237, 238, 239, 245, 262, 302, 309 and 344 of Mouza Holeswar, Village Harigaon under Tezpur Sadar Revenue Circle.
2. This Court vide an order dated 17.01.2022 had issued notice.
3. Today, when the matter has been taken up, this Court had enquired with Mr. N. Goswami, the learned Standing counsel appearing on behalf of the Respondent Nos. 2 and 3 as to why the demarcation have not been done pursuant to the application filed by the Petitioners. It was submitted by the learned Standing counsel that the said demarcation could not be done in view of a suit pending between the Petitioners and the Respondent No.4 being Title Suit No.2/2021 pending before the Court of the Munsiff at Tezpur. It was also submitted that there is an order of injunction passed in Misc. (J) Case No.5/2021 in connection with Title Suit No.2/2021 whereby there is a direction to both the parties to maintain status quo with respect to the suit land. The Court of the Munsiff No.1, Sonitpiur, Tezpur vide the said order had also clarified that the status quo order would mean that both the parties shall refrain from initiating any construction, sale or attempt to evict.
4. Upon hearing the learned counsels for the parties, this Court is of the

opinion that merely because the suit is pending and the injunction order was passed, the same would not preclude the Revenue Authorities to carry out the demarcation unless there is any order passed against the Revenue Authorities not to carry out any demarcation. Under such circumstances, this Court allows the instant writ petition thereby directing the Respondent Nos. 2 and 3 to take appropriate steps for carrying out the demarcation of the land measuring 24 Bighas 4 Kathas 18 Lechas covered by K.P. Patta No.105 of different Dag Nos. 237, 238, 239, 245, 262, 302, 309 and 344 of Mouza Holeswar, Village Harigaon under Tezpur Sadar Revenue Circle within 45 days from the date a certified copy of the instant order is served upon the Respondent No.2. It is however made clear that while carrying out the demarcation, the Respondent Nos. 2 and 3 shall only show the respective boundaries of the land and would not in any manner disturb the possession of the respective parties.

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

JUDGE

Comparing Assistant