

GAHC010116492023



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

Case No. : WP(C)/3088/2023

GHANA KANTA SAIKIA
SON OF LATE BADAN SAIKIA,
RESIDENT OF PHULBARI PAHUMARA,
REVENUE VILLAGE- NO. 2 BOKANADI,
P.O.- PHULBARI BOKANADI,
IN THE DISTRICT OF LAKHIMPUR,
ASSAM,
PIN- 787031.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE
GOVERNMENT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DEPUTY SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

PIN- 787001.

4:THE CIRCLE OFFICER
NOWBOICHA REVENUE CIRCLE
NOWBOICHA

PIN- 787023

Advocate for the Petitioner : MR. T K BHUYAN

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 30.05.2023

Heard Mr. S. Sarma, learned senior counsel, assisted by Mr. T.K. Bhuyan, learned counsel for the petitioner, Ms. G. Hazarika, learned counsel for the respondent nos. 1 and 2 and Mr. M. Chetia, learned Govt. advocate, appearing for respondent nos. 3 and 4

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for quashing of the eviction notice dated 23.05.2023 and to direct the respondent authorities not to evict the petitioner and to direct the respondent authorities to finalize the settlement process of the land, which is the subject matter of notice dated 23.05.2023.

3. The case of the petitioner is that in the year 2002, the petitioner has purchased possessory right over a plot of land measuring 1K-1L together with houses standing thereon from its previous possessor. The petitioner claims that he is in uninterrupted possession of the said land and has been paying the requisite land revenue/ fine as well as the electricity charges and has operating a grocery shop by constructing Assam type house thereon. The petitioner claims that on 30.11.2021, he had submitted an application for settlement of the land in his favour which was received as application no. 962 dated 30.11.2023 in the

office of the Deputy Commissioner, Lakhimpur, North Lakhimpur. It is submitted that as the application for settlement has not yet been disposed of, the petitioner could not have been evicted without taking a decision thereon.

4. At this stage, the learned Govt. advocate has submitted that he has received instructions to the effect that the application of the petitioner is under active consideration and an endeavor would be made to dispose it of within a period of 2(two) weeks. Therefore, he has prayed that this matter be disposed of in the motion stage.

5. In view of the submissions made by the learned Govt. advocate, the Court is of the considered opinion that instead of keeping the matter pending, it would be appropriate to dispose of this matter at the motion stage by directing the Deputy Commissioner, Lakhimpur, North Lakhimpur (respondent no.3) to first dispose of settlement application no. 962 dated 30.11.2021 preferably within a period of 2(two) weeks from the date of receipt of certified copy of the order. It is also provided that till the final decision is taken on the said settlement application no. 962 dated 30.11.2021 (annexure-6), and served on the petitioner at the e-mail address of the petitioner, the effect of the eviction notice under Sl. No. N.B.R.C.30/ encroachment-eviction/ 2020-21/291 dated 23.05.2023 shall be kept in abeyance.

6. The petitioner shall produce a certified copy of this order before the Deputy Commissioner, Lakhimpur, North Lakhimpur (respondent no.3) to bring this order to the notice of the said authority, and also provide his e-mail address and/ or mobile number having whatsapp/ telegram facility by which the order of the Deputy Commissioner-cum-Collector, Lakhimpur can be communicated to him.

7. Matter is disposed of.

JUDGE

Comparing Assistant