

GAHC010117602023



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

Case No. : I.A.(Civil)/1491/2023

MOMINA KHAN,
D/O. LT. MD. HUSSAIN KHAN, R/O. LAHORIJAN BLOCK NO.3, DUDU KHAN
COLONY, DIST. KARBI ANGLONG, ASSAM, PIN-782480.

VERSUS

THE STATE OF ASSAM,
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HOME DEPARTMENT, DISPUR, GUWAHATI-06, ASSAM.

2:KARBI ANGLONG AUTONOMOUS COUNCIL

REP. BY THE CHAIRMAN
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

3:DEPUTY SECRETARY

DEPTT. OF REVENUE
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

4:THE DEPUTY COMMISSIONER

KARBI ANGLONG AUTONOMOUS COUNCIL
KARBI ANGLONG
ASSAM.

5:REVENUE OFFICER

KARBI ANGLONG AUTONOMOUS COUNCIL
KARBI ANGLONG
ASSAM.

6:ASSTT. SETTLEMENT OFFICER

KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

01.06.2023

Heard Mr. G.N. Sahewalla, learned senior counsel assisted by Mr. P. Deka, learned counsel for the applicant; Ms. M. Barman, learned Junior Government Advocate, Assam for the opposite party nos. 1 & 4; and Mr. J. Chutia, learned Standing Counsel, Karbi Anglong Autonomous Council [KAAC] for the opposite party nos. 2, 3, 5 & 6.

2. The applicant as the petitioner, has preferred the connected writ petition, W.P.[C] no. 7288/2021 seeking inter alia a direction to the respondent authorities therein, that is, the opposite parties herein not to evict the petitioner and her family members from the plots of land measuring about 63 Bighas, located at Laharijan Block no. 3, Mouza - Borjan, District – Karbi Anglong, covered by Dag nos. 13, 16, 17, 24, 30, 33, 35, 37, 40, 41, 42 & 44 in Annual Patta nos. 1, 2, 3, 4, 5 & 6. By an order dated 23.12.2021, an interim order to the effect that subject to taking steps in the manner mentioned therein, the respondent authorities in the KAAC should not proceed with the eviction process with regard to Patta land of the applicant-

petitioner at Lahorijan Block no. 3 and/or Dudu Khan Colony, Mouza – Borjan, KAAC without following due process of law.

3. The instant interlocutory application is preferred by the applicant pursuant to an order dated 26.05.2023 passed by the District Magistrate, Karbi Anglong, Diphu wherefrom it is revealed that the respondent KAAC authorities is contemplating to undertake an eviction drive in the areas at Lahorijan Block no. 3, Mouza - Borjan. As the applicant-petitioner's plots of land for which the connected writ petition, W.P.[C] no. 7288/2021 is preferred, are also situated at Lahorijan Block no. 3, Mouza - Borjan, apprehending that the contemplated eviction drive will also cover the said plots of land, the applicant-petitioner has preferred the instant interlocutory application seeking appropriate relief, more particularly, a direction to the opposite party-respondent authorities not to take any coercive action with regard to the plots of land at Lahorijan Block no. 3, Dudu Khan Colony, Mouza – Borjan, KAAC, covered by Dag nos. 13, 16, 17, 24, 30, 33, 35, 37, 40, 41, 42 & 44 in Annual Patta nos. 1, 2, 3, 4, 5 & 6.

4. Mr. Chutia, learned Standing Counsel, KAAC has placed an order bearing no. KAAC/Rev-1893/Eviction Lahorijan/2023/2 dated 24.05.2023 of the Principal Secretary, KAAC, whereby the eviction process is contemplated to be undertaken to free 77 Bighas 3 Kathas 5 Lessas of Government land covered by Dag nos. 23, 55, 25, 43, 50, 39, 38, 41, 47, 1, 2, 4, 5, 6, 7, 8, 15, 26, 28, 46, 49 & 51 and the Government lands without Dag no. of Village – Lahorijan Block no. 3, Mouza – Borjan, Diphu Revenue Circle from encroachment. It is further submitted by Mr. Chutia that in the order dated 24.05.2023, it is expressly mentioned that the plots of land involved in the writ petitions pending before this Court shall not be disturbed till the writ petitions are disposed of. In such view of the matter, Mr. Chutia has submitted that since no eviction drive is contemplated to be undertaken in connection with the plots of land mentioned in the order dated 23.12.2021 passed in the writ petition, W.P.[C] no. 7288/2021, the apprehension of the applicant-petitioner is misplaced as the said plots of land are not part of the proposed eviction drive.

5. In view of the above fact situation emerging from the instructions placed by Mr. Chutia, learned Standing Counsel, KAAC including the order dated 24.05.2023, there is no

necessity to pass any fresh order apart from reiterating that the respondent KAAC authorities shall abide by the direction already given in the order dated 23.12.2021 passed in the writ petition, W.P.[C] no. 7288/2021.

6. The interlocutory application stands disposed of accordingly.

7. A copy of the set of instructions including the order bearing no. KAAC/Rev-1893/Eviction Lahorijan/2023/2 dated 24.05.2023 of the Principal Secretary, KAAC, placed by Mr. Chutia, learned Standing Counsel, KAAC, be kept as part of the case records.

JUDGE

Comparing Assistant