

GAHC010117802022



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

Case No. : WA/303/2022

PONAKAN KALITA
S/O JITEN KALITA, PRESENTLY RESIDING AT H. NO. 17, ANUPAM PATH,
GEETANAGAR, P.O.- BAMUNIMAIDAM, P.S.- GEETANAGAR, GUWAHATI-
21, DIST.- KAMRUP (M). PERMANENT R/O VILL. AND P.O.- BARANGHATI,
P.S.- KAYAN, DIST.- KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS. B
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, REVENUE DEPTT., ASSAM SECRETARIAT, DISPUR,
GUWAHATI- 6.

2:THE DEPUTY SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI- 6.

3:THE DEPUTY COMMISSIONER
DIST.- KAMRUP (M)
GUWAHATI
ASSAM.

4:THE ADDL. DEPUTY COMMISSIONER
DIST.- KAMRUP (M)
GUWAHATI
ASSAM.

5:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE

GUWAHATI
DIST.- KAMRUP (M)
GUWAHATI
ASSAM

Advocate for the Petitioner : MR. S ROY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE THE CHIEF JUSTICE (ACTING)
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

For the Petitioners	: Mr. M. H. Laskar, Advocate
For the Respondent	: Mr. N. Das, Govt. Advocate : Mr. R. Borpujari, SC, Revenue and Disaster Management Dept.
Date of Order	: 19.01.2023

ORDER

(Soumitra Saikia, J)

Heard Mr. M. H. Laskar, learned counsel for the appellant. Also heard Mr. N. Das, learned Government Advocate for the State of Assam and Mr. R. Borpujari, Standing Counsel for the Revenue and Disaster Management Department.

2. The appeal arises out of the Order dated 14.09.2021 passed by the learned Single Judge in WP(C) No. 4541/2021 which was preferred by the appellant as the writ petitioner.

3. The short case projected before this Court by the appellant is that the

appellant claims to be the grandson of Late Kirti Ram Kalita who was a freedom fighter and who was recognized by the Government of Assam as Political Sufferer. By communication No. RSS.372/67/13 dated 30.05.1968, the Revenue (Settlement) Department of the State informed the Deputy Commissioner of Kamrup(M), Guwahati regarding settlement of land in greater Guwahati and granting approval for settlement of land with 115 encroachers under 1963 circular of the State by which the encroachers were classified in two different categories and by fixing different rates of premium for those categories so that the average market value for the locality can be paid to the Government. The said approval of the Government in the Revenue (Settlement) Department also included the name of the late grandfather of the appellant. During the lifetime of late Kirti Ram Kalita, he was not settled with any land in greater Guwahati. The appellant, however, approached the Revenue Department seeking information under Right to Information Act, 2005 with regard to the grant of settlement of land in the name of late grandfather. He, thereafter, approached various authorities for settlement of land which was recommended for allotment in the name of the late grandfather of the appellant and sanctioned for which was granted by the State Government on 30.05.1968.

4. In pursuance to his representation preferred before the Revenue Minister of the State in August, 2017, the matter was processed and the Revenue and Disaster Management Department directed the Deputy Commissioner, Kamrup(M), Guwahati to examine the matter and to take action as per Rule.

5. It is the claim of the petitioner that since there was no response from the concerned officials in respect of his prayers, a further representation was filed before the Circle Officer, Guwahati Revenue Circle, Guwahati wherein the

appellant intimated that a plot of Government land in the Rupnagar area of Guwahati City under Ulubari Mouza is lying vacant which is suitable for the purpose of allotment to the petitioner as the legal heir of his grandfather. Since there was no response from the concerned Department, the petitioner approached this Court by filing WP(C) No. 4541/2021. The learned Single Judge upon consideration of the matter held that since after more than 33 years of the death of the grandfather, the appellant approached the Revenue Department of the State as well as the Deputy Commissioner, Kamrup(M) for settlement of land that was once recommended in the name of late grandfather-late Kirti Ram Kalita, the learned Single Judge declined to issue any specific orders and accordingly dismissed the writ petition on the ground that the appellant/petitioner had approached the Writ Court at a very belated stage and that too without any satisfactory explanation for such delay, the writ petition was accordingly dismissed.

6. The learned counsels for the parties have been heard. Pleadings on record have been duly perused.

7. What is seen is that since the writ petition was dismissed without issuing notice no affidavit etc. has been filed by the Department reflecting the contentions of the Department. Before this Court, in the absence of any counter affidavit filed, the learned Government counsel has expressed his inability to either accept or dispute the communications issued by the Department of Revenue and Disaster Management Department directed to the Deputy Commissioner, Kamrup(M), Guwahati to examine the matter and take necessary action and the consequential communications, thereafter, issued by the Office of the Deputy Commissioner, Kamrup(M) to the concerned Circle Officer to find out

a suitable plot of land for the purpose of allotment to the appellant and thereafter submit a report and proposals as per the Rules. The Government counsel before this Court is also not posted with the required instructions in respect of the status of the enquiry and the proposal for allotment of alternative plot of land to the appellant.

8. Accordingly, this Court is of the view that since the Department had already initiated steps to make necessary enquiry and submit proposals for allotment of alternative land to the appellant, ends of justice will be met, if the Writ Appeal is disposed of with a direction to all the respondents to take all the required steps in the matter and thereafter pass a reasoned order as per the provision of law in respect of the prayers made by the appellant for allotment of alternative plot of land which was recommended in favour of late Kirti Ram Kalita his grandfather as far back as 30.05.1968.

9. The entire matter shall be disposed of within a period of 4(four) weeks from the date of receipt of certified copy of this order. A copy of any such order passed by the respondents shall be served to the appellant. If, in the meantime, any such order has already been passed by the respondents, then a copy of the same should be marked to the appellant within a period of 2(two) weeks from the date of receipt of the certified copy of this order.

10. The impugned Order dated 14.09.2021 passed by the learned Single Judge in WP(C) No. 4541/2021 is modified to the extent indicated above.

11. The appellant will be at liberty to file a copy of the writ appeal along with the enclosures as well as a copy of the order passed by this Court before the respondent authorities.

12. The Writ Appeal is accordingly allowed and disposed of in terms of the above. No order as to cost.

JUDGE

CHIEF JUSTICE (ACTING)

Comparing Assistant