

GAHC010028212022



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

Case No.: WP(C)/5866/2015

SMTI SUTOPA BHOWMIK and 44 ORS
W/O LT. SWAPAN BHOWMIK

2: SRI BI DHAN DEB NATH
S/O LT. SURESH CH. DEB NATH

3: SHRI SHANKAR ROY
S/O LT. JOTINDRA ROY

4: SMTI. PRATIMA BHATTACHARJEE
W/O SHRI BIBHASH BHATTACHARJEE.

5: SHRI BIPLOB PURKAYASTHA
S/O LT. SATYENDRA PURKAYASTHA

6: SMTI. SWAPNA BHATTACHARJEE
W/O LATE BISWAJIT BHATTACHARJEE.

7: SHRI SUBHASH CH. SUTRA DHAR
S/O LT. SUDHAM SUTRA DHAR.

8: SMTI. GITA DASGUPTA
W/O. LT. GOPIKA RN. DASGUPTA

9: ANJALI BHATTACHARJEE
W/O LT. BIVEKANANDA BHATTACHARJEE

10: SMTI. NANDITA BHATTACHARJEE
W/O LT. BIJOY KR. BHATTACHARJEE.

11: SMTI. PURABI DHAR
W/O LT. GIRINDRA NATH DHAR

12: SHRI BISHNU NATH
S/O LT. RAMEN NATH

13: MISS. KAMALA PANDIT
D/O LT. SUNACHAND PANDIT

14: SHRI KRIPESH RANJAN AYAN
S/O LT. KETAKI RN. AYAN

15: SHRI KALYAN CHAKRABORTY
S/O LT. KARUNA MOY CHAKRABORTY

16: SMTI. HIRANYA BALA DEB NATH
S/O LT. JOGESH CHANDA

17: SHRI JADAN CHAND
S/O LT. JUGESH CHANDA.

18: SHRI AMALENDU CHAKRABORTY
S/O LT. AMARENDRA CHAKRABORTY

19: SHRI JOYDEEP CHOUDHURY
S/O LT. RANJIT KR. CHOUDHURY

20: SMTI. SUSHMITA DAS
W/O LT. GOURANGA CH. DAS

21: SMTI. SHEFALI DAS
W/O CHITTARANJAN DAS

22: SHRI AVIJIT DHAR
S/O LT. ADHIR CH. DHAR

23: SMTI. SWAPNA CHANDA
W/O LT. BENU CHANDA.

24: SMTI. REKHA CHAKRABORTY
W/O LT. DURGADAS CHAKRABORTY

25: SMTI. RAMA CHAKRABORTY
W/O LT. RAMAPADA CHAKRABORTY

26: SMTI. PURNIMA CHAKRABORTY
W/O LT. SATISH CHAKRABORTY

27: SMTI. KALPANA ACHARJEE
W/O LT. MAKHAN ACHARJEE

28: SMTI. DIPTI DEB
W/O LT. NIRANJAN DEB

29: SMTI. FALGUNI BHATTACHARJEE
@ SWAPNA BHATTACHARJEE W/O LT. PRABHASH BHATTACHARJEE.

30: SHRI SAMBHU DUTTA
S/OLT. SACHINDRA MOHAN DUTTA

31: SMTI. MILON NATH
W/O LT. RABINDRA KR.NATH

32: SHRI SUDHIR KR. NATH
S/OLT. ABHOY CHARAN NATH

33: SMTI. SHUKLA DEB
W/O LT. JAGADISH DEB

34: SHRI RADHAGOBINDA DEB
S/O LT. RATANMONI DEB

35: SHYAMAL DEB
S/OLT. NITAI DEB

36: GAYATRI MAHAPATRA
D/O LT. UPENDRA MAHAPATRA

37: APARNA CHOUDHURY
W/O LT. GOPAL CHOUDHURY

38: MAHAMAYA DUTTA
W/O LT. GYANENDRA DUTTA

39: PRATIVA ROY
W/OLT. HIMANGSHU ROY

40: GOURI ROY
W/O LT. JAYANTA ROY

41: SATHI ROY
W/O LT. HARIDAS ROY

42: DILIP BHATTACHARJEE
S/O LT RAKESH CH. BHATTACHARJEE

43: SMTI. NIRUPAMA DAS
W/O LT. BINESH CH. DAS

44: ASHIT ROY
S/O LT. HARIDAS ROY

45: TARAK BANDHU DEB NATH
S/O LT. ANANDA DEB NATH ALL ARE RESIDENTS OF TARAPUR
SILCHAR
ASSAM.
VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY ITS SECRETARY
REVENUE DISPUR
GUWAHATI-5.

2:THE DEPUTY COMMISSIONER

CACHAR
DIST. CACHAR
ASSAM.
3:N.F. RAILWAY

REP. BY G.M. RAILWAY
MALIGAON
GUWAHATI.
4:THE ESTATE OFFICER

NORTH EAST FRONTIER RAILWAY
LAMDING.

For the petitioner (s) : Mr. P. K. Roy, Sr. Advocate
Mr. S. K. Chakraborty, Advocate

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

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

28.09.2023

The instant writ petition has been filed by 45 petitioners challenging the notice issued to petitioner No.27 under Section 4 of the Public Premises (Eviction of Unauthorized Occupancy) Act, 1971 (for short, 'the Act of 1971').

2. It is the case of the other petitioners that they apprehend that they would also be issued similar notices as was done in the case of the petitioner No.27, and as such, have filed the instant writ petition challenging the notice dated 28.08.2015 issued to the petitioner No.27 and for a further direction that the respondents should not take any steps for eviction of the petitioners without disposing of the earlier eviction proceedings initiated against them under the Act of 1971. The petitioners have also sought for a direction upon the State respondents to settle the land in favour of the petitioners.

3. Upon filing of the instant writ petition, this Court vide an order dated 21.09.2015 issued notice and further directed that the respondents shall not disturb the possession of the petitioner in Dag No.498 at Tarapur, Silchar. The said interim order has been operating since then till date.

4. This Court has duly perused the materials on record and enquired with the learned counsel for the petitioners as to whether the issuance of the notice under Section 4 of the Act of 1971 upon the petitioner No.27 is without jurisdiction. Nothing substantial could be submitted by the learned senior counsel for the petitioners to show that the issuance of notice to the petitioner No.27 was without jurisdiction.

5. This Court has also taken note of that other petitioners have approached this Court merely on apprehension that they would be also issued notices under Section 4 of the Act of 1971. This Court makes it clear that as per Section 4 of the Act of 1971, the Estate Officer has the authority and jurisdiction to issue notice if the said land comes within the purview of 'public premises'. As per the definition of public premises as mentioned in Section 2 (e) of the Act of 1971, it would also include land and in the instant case the Railway land.

6. Under such circumstances, it is the opinion of this Court that the Estate Officer, N. F. Railways, Lumding would be within its jurisdiction to issue notice in respect to a Railway land. Consequently, the filing of the instant writ petition by the petitioners challenging the notice issued to the petitioner No.27 dated 28.08.2015 and apprehending that the petitioners may also be evicted by issuance of similar notice is totally misconceived for which the instant writ petition stands dismissed.

7. This Court further finds it relevant to take note of that there a further prayer in the writ petition that the State Authorities should be directed to grant allotment to the petitioners. The cause of action against the Railway Authorities and the cause of action against the Revenue Authority are completely distinct and different. Under such circumstances, the instant writ petition ought not to have been filed joining both the cause of actions.

8. Be that as it may, the question of issuance of a direction to the State Authorities to settle the land in favour of the petitioner cannot be directed by the Court in as much as settling of a land depends upon the varied consideration and the discretion of the Government.

9. Under such circumstances, this Court is not inclined to issue any direction to the State Authorities to settle the land in favour of the petitioners. However, the petitioner would be at liberty to approach the respondent Revenue Authorities, if so advised.

10. Before concluding, this Court finds it relevant to observe that as the petitioners had approached this Court directly, the petitioner No.27 did not submit the reply to the notice dated 28.08.2015. This Court grants the petitioner No.27, 15 (fifteen) days time from today to submit her show cause reply to the impugned notice dated 28.08.2015 before the Estate Officer, N.F.

Railways, Lumding.

11. The interim order passed earlier stands vacated.

JUDGE

Comparing Assistant