

GAHC010127632022



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

Case No. : WP(C)/4420/2022

SANTESH ALI SHEIKH AND ANR
S/O- LATE HAJI SOBAHAN ALI SHEIKH, R/O- VILL.- GUTIPARA PART-IV,
P.O. GUTIPARA, P.S. BILASIPARA, DIST. DHUBRI, ASSAM, PIN- 783349.

2: ABIDA EASMIN
W/O- SANTESH ALI SHEIKH
R/O- VILL.- GUTIPARA PART-IV
P.O. GUTIPARA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783349

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, LAND AND REVENUE DEPARTMENT DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
P.O.
P.S. AND DIST. DHUBRI
ASSAM
PIN- 783301.

3:THE SETTLEMENT OFFICER
DHUBRI AND KOKRAJHAR DISTRICT
P.O.
P.S. AND DIST. DHUBRI
ASSAM
PIN- 783301.

4:THE ASSISTANT SETTLEMENT OFFICER
BILASIPARA REVENUE CIRCLE
BILASIPARA
P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783348

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 27.03.2023

Heard Mr. M. Hussain, learned counsel for the petitioners. Also heard Ms. G. Hazarika, learned counsel for the respondent No. 1 and Mr. N. Goswami, learned counsel for the respondent Nos. 2 & 3.

2. The petitioners' grievance pertains to the fact that their prayer for demarcation of land and correction of map has not been considered by the authorities till date.

3. The petitioners' counsel submits that the petitioners have purchased a plot of land measuring 1B-3K-15L covered by Dag No. 251, Khiraj Myadi No. 92, Khatian No. 15 of Village- Bilasipara Sadar under Bilasipara Revenue Circle in the district of Dhubri, Assam from the pattaders by registered sale deed dated 23.03.2009. Thereafter, the land has been mutated in the name of the petitioners and they have been in possession of the same till date. The petitioners' further case is that they installed pillars around the boundaries of the land. However, the owners of the land adjacent to the petitioners' land encroached upon the land. The petitioners, thereafter, submitted petitions

before the Settlement Officer, Dhubri and Kokrajhar district, to demarcate the land of the petitioners and to make correction to the map, if required. The petitioners submitted their representation on 16.03.2009.

4. The petitioners' counsel submits that as no action was being taken by the respondent, for demarcation of their land and correction of the map, the petitioners submitted an application dated 02.02.2023 under Section 4 of the Assam Right to Public Service Act, 2012, as amended upto date, hereinafter referred to as the 2012 Act, for correction of the area of the land/dag in the map and to demarcate the land. The application which was addressed to the Circle Officer-cum-Assistant Settlement Officer, Bilasipara Revenue Circle, Assam has not been acted upon by the authorities till date and as such, the petitioners are going to file an appeal in terms of Section 8 of the 2012 Act.

5. The learned counsels for the respondents submit that the writ petition should be dismissed as an alternative remedy is available, which the petitioners has availed of by filing an application under Section 4 of the 2012 Act. In this regard, they have relied upon the order dated 18.05.2022 passed in WP(C) No. 2473/2022.

6. On perusing the order dated 18.05.2022 passed in WP(C) No. 2743/2022, this Court finds that in a similar set of facts, this Court had declined to continue with the writ petition, as an alternative efficacious remedy was available under the 2012 Act.

7. The above being said, the petitioners in this writ petition has averred in paragraph No. 6 that the owners of the adjacent land had broken the pillars erected by the petitioners and had encroached the North-West and South-West corner of the petitioners' land. However, the adjacent land owners have not

been made the parties in this writ petition. In any event, as the petitioners have already availed of the alternative efficacious remedy, by filing an application under Section 4 of the 2012 Act with regard to their grievance and as they can file an appeal under Section 8 of the 2012 Act, if the Section 4 application is not considered by the respondents' counsel, this Court of the opinion that the present writ petition should not be kept pending any longer. In view of the above reasons, the writ petition stands closed, with liberty being given to the petitioners, to avail of the alternative remedy available in terms of 2012 Act, whether waiting for a decision in respect of the petitioners' application under Section 4 or filing an appeal under Section 8.

8. The writ petition is, accordingly, disposed of.

JUDGE

Comparing Assistant