

GAHC010129232017



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

Case No. : WP(C)/2881/2017

KALICHARAN DEKA
S/O LATE GOBINDA DEKA, R/O PURNA NAGAR NEPALI CHOWK, HOUSE
NO.127, NOONMATI, WARD NO.46, PO and PS NOONMATI, DIST. KAMRUP,
GUWAHATI

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM,
REVENUE and DISASTER MANAGEMENT DEPTT., ASSAM SACHIVALAYA,
DISPUR, GUWAHATI-6

2:THE DEPUTY COMMISSIONER
KAMRUP METROPOLITAN DISTRICT
GUWAHATI
ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER and CEO
DISTRICT DISASTER MANAGEMENT AUTHORITY
KAMRUP M DISTRICT
GUWAHATI
ASSAM

4:THE CIRCLE OFFICER
GUWAHATI REVENUE CIRCLE
GUWAHATI

5:THE FOREST RANGE OFFICER
GUWAHATI RANGE
GUWAHATI-1

6:THE OFFICER IN CHARGE

NOONMATI P.S- NOONMATI
CITY-GUWAHATI
DIST. KAMRUP M
ASSAM

7:SMTI INDU ROY
W/O SRI UPENDRA CHANDRA ROY
R/O PURNA NAGAR NEPALI CHOWK
NOONMATI
HOUSE NO.127
WARD NO. 46
PO and PS NOONMATI
DIST. KAMRUP
GUWAHATI

8:DR. ANUPAM DAS
S/O LATE NRIPEN DAS
R/O VILL-BARITHAPUR
PO and PS HATIGAON
DIST. KAMRUP M ASSA

For the petitioner (s) : Mr. D. K. Kotoky, Advocate
Mr. N. D. Sarma, Advocate

For the respondent (s) : Mr. D. Gogoi, Advocate
Mr. K. Bhattacharjee, Advocate
Mr. R. Dubey, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

18.09.2023

The instant writ petition has been filed by the petitioner seeking a direction to cut down and uproot three numbers of trees dangerously standing in the plot of land measuring 4 kathas covered by Old Dag No.3, Plot Nos.15 & 16, New Dag No.361 included in KP Patta No.3 situated at the Revenue Village Haguraghuli, Chunchali Grant, Nepali Chowk, Noonmati of Ulubari Mouza in the district of Kamrup (Metro), Assam.

2. It appears from the perusal of the writ petition that the petitioner's land is adjacent to the land covered by Dag No.3 (old), 361 (new) included in KP Patta No.3 situated at the Revenue Village Haguraghuli, Chunchali Grant, under Ulubari Mouza in the district of Kamrup (Metro) (for short, 'the said land'). The topography of the said land is such that its terrain is higher than the land of the petitioner. It is also seen from the writ petition that in the land of the petitioner, there is a house. It is also seen that there is a dispute going on between the respondent Nos.7 & 8 over the said land which is a subject matter of another litigation.

3. Be that as it may, on the said land there are three huge trees, the branches of which are hanging over the petitioner's house. The said trees are standing in a dangerous manner and in all likelihood if there is any erosion of the said land, the said trees may fall upon the petitioner's house. To the said effect, there are certain photographs enclosed to the writ petition at Page No.14A and 14B which also show that the said three trees are standing dangerously on the said land.

4. The petitioner, therefore, had approached the Revenue and Disaster Management Department to cut down the said trees fearing the threat to his and his family's lives and property. The petitioner had also approached the Forest Range Officer, Guwahati Range, Guwahati praying for taking steps to cut down the said trees. The Additional Deputy Commissioner and the CEO, District Disaster Management Authority, Kamrup (Metro) had also issued a communication to the Circle Officer, Guwahati Revenue Circle on 25.04.2017 informing about the dangerously standing trees and to take necessary action in that regard. However, nothing was done in that regard for which the petitioner has approached this Court.

5. Mr. K. Bhattacharjee, the learned counsel appearing on behalf of the respondent No.7 and Mr. R. Dubey, the learned counsel appearing on behalf of the respondent No.8 have informed this Court that presently the respondent No.8 is in the possession of the said land, but there is an order of status-quo passed in I.A.(C) No.1976/2019 arising out of the RSA No.117/2019, and as such, the respondent No.8 is not in a position to cut down the said trees.

6. This Court has also taken note of the submission of Mr. D. Gogoi, the learned counsel appearing on behalf of the Forest Department who submits that during the enquiry made by the Forest Officials, it was found that the said trees are standing dangerously and in all likelihood may fall upon the petitioner's house, if any erosion takes place during the rainy season.

7. Before deciding the instant matter, this Court finds it relevant to take note of the order dated 12.06.2019 passed in I.A.(C) No.1976/2019 arising out of RSA No.117/2019. From a perusal of the order dated 12.06.2019, it is seen that the status-quo order so passed only relates to the possession of the land, and as such, the said status-quo order dated 12.06.2019 would not come in the way of the respondent No.8 to cut down the three trees standing upon the said land.

8. This Court, therefore, taking into account that the three trees being a threat to the lives and properties of the petitioner and his family, grants the liberty to the respondent No.8 to cut down the said trees by 18.10.2023.

9. It is made clear that if within the said period, the said trees are not cut down, the Forest Department of the Government of Assam and more particularly the Divisional Forest Officer, Kamrup East Division shall take appropriate steps for cutting down the said trees within 10 (ten) days

thereafter.

10. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant