

GAHC010150252022



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

Case No. : CRP(IO)/169/2022

ABDUL ALI AHMED
S/O- LATE DOST MAHAMMAD, REPRESENTED HOUSE NO. 109, PRAGATI
BHAWAN, FAKARUDDIN ALI AHMED ROAD, SIXMILE, GUWAHATI-22,
DIST. KAMRUP(M), ASSAM

VERSUS

SYED MOHAMMAD ALI
S/O- SYED WAJED ALI, SARUMATARIA, P.O. AND P.S. DISPUR, GUWAHATI-
781006.

Advocate for the Petitioner : MR. K BHATTACHARJEE

Advocate for the Respondent : MR. B D DEKA

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

22.05.2023

1. Heard Mr. K. Bhattacharjee, learned counsel for the petitioner. Also heard Mr. B. D. Deka, learned counsel for the respondent.
2. The present application is filed assailing the order dated 06.07.2022

passed by the learned Additional Sessions Judge No. 1, Kamrup (M) at Guwahati in Sessions (Spl.) L. G. Case No. 20/2016.

3. The basic ground of challenge is that the learned Court below has not followed the procedure in terms of Assam Land Grabbing (Prohibition) Act, 2010 and has not given any opportunity to adduce evidence to the present petitioner for proving his case.
4. Mr. B. D. Deka, learned counsel for the respondent (petitioner in Spl. L G. Case No. 20/2016) submits that the decision was taken considering the material relevance to determine the issues inasmuch as the procedure under Assam Land Grabbing (Prohibition) Act, 2010 is summary in nature. However, in his usual fairness, submits that no date of evidence for DW was fixed inasmuch as the learned counsel representing the respondent before the Court below has not insisted upon adducing any evidence.
5. Countering such argument, Mr. K. Bhattacharjee, learned counsel for the petitioner (respondent in Spl. L G. Case No. 20/2016) submits that even if a lawyer has not insisted, a date for evidence of DWs is required to be fixed inasmuch as it is a procedure and right of the respondent to lead evidence.
6. Mr. Deka, learned counsel for the respondent also submits that if the matter is not taken up on the other grounds and is remanded back for granting an opportunity to lead evidence to the parties, he will not object.
7. This Court is also of the view that the procedure as laid down under the Assam Land Grabbing (Prohibition) Act, 2010 is required to be followed, though such procedure is summary in nature and in the case in

hand, it is an admitted position that no date for adducing DWs were fixed.

8. In that view of the matter and as agreed to by the learned counsel for the parties, the present revision petition is allowed by setting aside the impugned order dated 06.07.2022 passed by the learned Additional Sessions Judge No. 1, Kamrup (M) at Guwahati in Sessions (Spl.) L. G. Case No. 20/2016.
9. The matter is remanded back to the learned Additional Sessions Judge No. 1, Kamrup (M) at Guwahati to proceed with the matter by following due process as envisaged under the Assam Land Grabbing (Prohibition) Act, 2010 and Rules framed therein.
10. Parties shall appear before the learned Additional Sessions Judge No. 1, Kamrup (M) at Guwahati below on 13.06.2023 and on such appearance, the learned Court below shall proceed in accordance with law.

JUDGE

Comparing Assistant