

GAHC010154322023



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

Case No. : WP(C)/4020/2023

MUNIA DEVI
W/O- SRI HORENOHA CH.
R/O VILLAGE NO.-3 NAWAI BEEL,
P.S.- KHERNI,
DISTRICT- WEST KARBI ANGLONG.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
REVENUE DEPARTMENT, DISPUR,
GUWAHATI-6

2:SECRETARY TO THE REVENUE DEPARTMENT
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU.

3:DEPUTY COMMISSIONER
WEST KARBI ANGLONG
HAMRENG.

4:SUB DIVISIONAL OFFICER (SADAR)
WEST KARBI ANGLONG DISTRICT
HAMRENG.

5:ASSISTANT SETTLEMENT OFFICER
DONKA REVENUE CIRCLE
DONKAMMMAKOM

KARBI ANGLONG AUTONOMOUS COUNCIL.

6:THE C.I. BAITHALANGSHO

WEST KARBI ANGLONG
P.O. AND P.S.- BAITHALANGSHO

DIST. WEST KARBI ANGLONG

ASSAM.

7:OFFICER-IN-CHARGE KHERONI POLICE OUT POST
WEST KARBI ANGLONG
HAMRENG.

8:OFFICER-IN-CHARGE
MAILO POST OUT POST
MAILO

9:SUBHASH CHAUHAN
S/O- RAMADAR CHAUHAN

VILLAGE- NO. 2 NOWAIBEEL

DISTRICT- WEST KARBI ANGLONG

ASSAM

Advocate for the Petitioner : MRS P BARMAN

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 02-08-2023

Heard Mrs. P. Barman, learned counsel for the writ petitioner. Also heard Mr. A. Chutia, learned standing counsel, KAAC appearing for the respondent Nos. 2 and 5 as well as Mr. C.K.S. Baruah, learned Govt. Advocate, Assam appearing for the respondent Nos. 3 and 4.

Perused the averments made in the writ petition.

According to the writ petitioner, she is in occupation of a plot of sarkari land covered by Dag No. 200 situated in village No. 2 Nowaibeel in the district of West Karbi Anglong. Alleging undue harassment meted out to her by the Mailo Police outpost, the petitioner has approached this Court, *inter-alia*, contending that the police are trying to forcefully evict the petitioner from the land on the pretext of providing pathway to the adjoining cremation ground.

In terms of the order dated 21-07-2023, Ms. Barman has produced photographs of the land to show that there is no pathway over the land in question leading to the cremation ground.

Mr. A. Bhattacharyya, learned standing counsel, Revenue & DM Department, Assam appearing for the respondent No. 1, on the other hand, has pointed out the order dated 21-01-2023 passed by the SDO(Sadar), West Karbi Anglong, Hamren to submit that there is already an order passed by the Executive Magistrate in a proceeding registered as M.R. Case No. 23/2022 under Section 144/145 Cr.P.C. and the police is merely acting in terms of the order of the learned Magistrate.

Responding to the above, Ms. Barman, learned counsel for the writ petitioner submits that the order dated 21-01-2023 relates to a land covered under Dag No. 111 whereas the land under occupation of the petitioner is covered by Dag No. 200. Moreover, submits Ms. Barman, the order dated 21-07-2023 having been passed more than 60 days back, the same has already spent its force and therefore, the order is not in force as on date.

Be that as it may, it appears that there is some dispute over a plot of sarkari land under occupation of the petitioner. The villagers are seeking pathway over the said plot of sarkari land leading to the adjoining cremation ground but the petitioner is resisting the same. Whether there is a pathway in existence over the sarkari land and if so, whether the same leads to the cremation ground are matters which would require factual verification, which cannot be done in a writ petition. However, the police cannot interfere with the possession of any person over land except in accordance with law, i.e. as per the order of a Court/ or Magistrate, issuing specific direction in that regard.

Therefore, without expressing any opinion on the claim of the petitioner, this writ petition stands disposed of at the stage of motion hearing by providing that if the respondents proposes to act in the matter then the same shall be done strictly in accordance with law and after proper verification of the identity of the land under the occupation of the petitioner and after giving her an opportunity of being heard in the matter.

With the above observation, this writ petition stands closed.

JUDGE

GS

Comparing Assistant