

GAHC010154942023



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

Case No. : WP(C)/4058/2023

MONOWAR HUSSAIN
S/O- HAJI MATLEB HUSSAIN,
R/O- SUAPATA PART IV,
P.O- SUAPATA, P.S- BILASIPARA, DIST- DHUBRI, ASSAM, PIN-783348

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE (L.R) DEPARTMENT
DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
PIN-783301

3:THE CIRCLE OFFICER
BILASIPARA REVENUE CIRCLE

DIST- DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 24.07.2023

Heard Mr. M.A. Islam, learned counsel for the petitioner, Ms. G. Hazarika, learned standing counsel for the Revenue Department, respondent no.1 and Mr. K. Gogoi, learned Addl. Senior Govt. advocate appearing for respondent nos. 2 and 3.

2. The case projected by the petitioner in the writ petition is to the effect that as his deceased father had purchased a plot of land measuring 1B-0K-1L covered by Dag no. 8, Khatian no. 8 in respect of new Dag no. 746 of Patta no. 635 covered by village Suapata Part-IV, Mouza Bilasipara in the district of Dhubri, Assam.

3. As per the writ petition, it is projected that the said land was purchased vide registered sale deed no. 8953 dated 05.10.1967 and the name of the father of the petitioner was mutated in the record of rights vide mutation order dated 21.07.1973. The case projected in the writ petition is that in the year 1996, the Assistant Settlement Officer, Bilasipara Revenue Circle (respondent no.3) recorded the name of the father of the petitioner as *Rayat* of one Sona Ullah Munshi instead of referring him as a pattadar. On the death of his father, the name of the petitioner was entered in the *Rayati Khatian* in place of his deceased father. Accordingly, the petitioner has submitted a representation dated 03.05.2023 before the Circle Officer, Bilasipara Revenue Circle (respondent no.3) for correction of the land records and for conversion of *Rayati patta* into the *Kheraj Myadi patta*.

4. However, in a departure to the stand taken in the writ petition, the learned counsel for the petitioner has submitted that insofar as the status of the petitioner as *Rayat* is concerned, the petitioner seeks to fructify the said right to a right of the land owner by applying for issuance of patta as *Rayat* on the strength of his possession. Accordingly, the learned counsel for the petitioner has prayed that the representation of the petitioner dated 03.05.2023 for conversion of the *Rayati patta* into the *Kheraj Myadi patta* may be considered.

5. The contention of the learned counsel for the petitioner is questioned by the learned Addl. Senior Govt. Advocate on the ground that the oral prayer is in departure to the stand taken in the writ petition.

6. Be that as it may, as the learned counsel for the petitioner asserts that his specific instruction is that the petitioner is not claiming right as a pattadar and/or as a owner of the land and wants to perfect his right by conversion of *Rayati khatian* to a *periodic patta* holder, the Court is of the considered opinion that keeping the matter pending before this Court would not serve any purpose and accordingly, issuance of notice on the respondents is dispensed with.

7. The petitioner had submitted a representation dated 03.05.2023 to the Circle Officer, Bilasipara Revenue Circle (respondent no.3). The said authority, on a receipt of certified copy of this order, shall consider the said representation as one under section 23 of the Assam (Temporarily Settled Areas) Tenancy Act, 1971 and forward the same to the Deputy Commissioner, Dhubri who shall consider the said representation to be one under section 23 of the Assam (Temporarily Settled Areas) Tenancy Act, 1971 by taking note of the fact that the petitioner before this Court has relinquished the proprietary right flowing from the sale deed no. 8953 dated 05.10.1967.

8. On registration of such *Rayati* case, Deputy Commissioner, Dhubri shall issue notice on the affected parties in accordance with law and make an attempt to dispose of the said representation preferably within an outer period of 4(four) months from the date of receipt of certified copy of this order, if necessary by restricting avoidable adjournments.

9. The petitioner shall produce the certified copy of this order before the respondent no. 3 so as to enable the said authority to transmit the representation to the Deputy Commissioner, Dhubri.

10. With the aforesaid direction, this writ petition stands disposed of at the motion stage without issuing notice to the respondents. Therefore, any party, who might be aggrieved by this order shall have the right to apply for modification of this order.

JUDGE

Comparing Assistant