

GAHC010164272023



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

Case No. : WP(C)/4337/2023

RINKU CHOUDHURY
SON OF GAJEN CHOUDHURY,
RESIDENT OF KATAHBARI, NIZARAPAR PATH,
POST OFFICE AND POLICE STATION- GORCHUK,
GUWAHATI, DISTRICT- KAMRUP(METRO),
ASSAM, PIN- 781035.

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI,
DISTRICT- KAMRUP(METRO),
ASSAM, PIN- 781006.

2:THE REVENUE CIRCLE OFFICER
AZARA REVENUE CIRCLE
GUWAHATI
DISTRICT- KAMRUP(METRO)

ASSAM
PIN- 781017.

3:THE POLICE COMMISSIONER
KAMRUP(METRO)
GUWAHATI
ASSAM
PIN- 781001.

4:THE DEPUTY COMMISSIONER

KAMRUP(METRO)
GUWAHATI.

5:THE OFFICER-IN-CHARGE
GARCHUK POLICE STATION
GUWAHATI
DISTRICT- KAMRUP(METRO)
ASSAM
PIN- 781035.

6:PRADIP KUMAR DAS
SON OF LATE MAHENDRDA NATH DAS

RESIDENT OF VILLAGE- MANCOTTA ROAD
MILAN NAGAR

POLICE STATION- DIBRUGARH

DISTRICT- DIBRUGARH
ASSAM.

7:KANIKA BORO
WIFE OF SRI RAMESWAR BORO

RESIDENT OF VILLAGE- TANGANI

CHANGSARI
DISTRICT- KAMRUP

ASSAM.

8:NAMITA DEKA
WIFE OF SRI NRIPEN DEKA

RESIDENT OF AKASHI PATH

R.G. BARUAH ROAD
GUWAHATI

DISTRICT- KAMRUP(METRO)

ASSAM
PIN- 781007

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 02/08/2023

Heard Mr. R. Sarma, learned counsel for the writ petitioner. Perused the averments made in the writ petition.

The case of the petitioner is that in terms of a Deed of Agreement for sale dated 06/10/2021, he has taken possession in respect of a plot of land measuring 01K-05L covered by Dag No.1054 of K.P. Patta No. 510 of revenue village Betkuchi under Mouza- Beltola in the district of Kamrup (Metro). The grievance of the petitioner is that whenever he tries to make development in the aforesaid land under his occupation, the Police from the Gorchuk Police Station comes in the way by restraining the petitioner from developing his land.

According to Mr. Sarma, a suit being TS No. 338/2014 is pending in the Court of Munsiff No. 1, Kamrup (M) at Guwahati by and between Smt. Kanika Boro and the present petitioner but the suit land is a different plot of land measuring 1K-5L covered by Dag No. 504(Old)/1040(new) of K.P. Patta No. 71(old)/1350 (new) of village Betkuchi under Beltola Mouza. Moreover, there is no restraint order from any Court or any direction from the Civil Court upon the Police to take any action in the matter. Notwithstanding the same, the petitioner's possession over the land has been unduly disturbed by the respondent no. 5. Hence, this writ petition.

Mr. A. Bhattacharjee, learned Standing Counsel, Revenue and DM Department, Assam, appearing for the respondent no. 1 and Mr. B. Deuri, learned Government Advocate, Assam, appearing for the respondent nos. 2 to 5 submit that no instructions are available with them at this point of time.

Be that as it may, law is well settled in case of a civil dispute pertaining to land, Police cannot

take unilateral action until and unless there is a specific order from the Court or from the Magistrate requiring the Police to act in a particular manner.

Since the petitioner has made a categorical statement that the land under his possession is different from the suit land involved in TS No. 338/2014 and in view of the submission made by Mr. Sarma, learned counsel for the writ petitioner, that there is no order of the Court directing the Police to take action in the matter, I dispose of the writ petition by providing that the petitioner may submit appropriate representation before the respondent nos. 3 and 4 ventilating his grievance in the matter.

If such representation is submitted by the petitioner, the same be examined in the light of the observations made herein above and necessary instructions be issued to the respondent no. 5, as may be warranted in the facts and circumstances of the case.

The writ petitioner to submit his representation before the respondent nos. 3 and 4 within two weeks from today by enclosing a certified copy of this order.

With the above observation, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant