

GAHC010168102020



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

Case No. : WP(C)/4919/2020

M/S JOONKTOLLEE TEA AND INDUSTRIES LIMITED
A COMPANY INCORPORATED UNDER THE PROVISION OF THE
COMPANIES ACT, 1956 HAVING ITS REGD. OFFICE AT 21, STARAND ROAD,
KOLKATA-700001, WEST BENGAL, REP. BY ITS DULY CONSTITUTED
ATTORNEY/AUTHORIZED REPRESENTATIVE, NAMELY, SRI DEEPAK
MEHTA, S/O. LT. KAILASH NATH MEHTA, R/O. SCOT VILA NO.2, GREEN
COUNTRY, UNIVERSITY ROAD, LADHEWALI SUCHI PIND, P.O. CHOGITTI-
144009, JALANDHAR, PUNJAB.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY ITS PRINCIPAL SECRETARY OF THE GOVT. OF ASSAM, REVENUE
AND DISASTER DEPTT., DISPUR, GUWAHATI-781006.

2:THE PRINCIPAL SECRETARY

REVENUE AND DISASTER DEPTT.
ASSAM
DISPUR
GUWAHATI-781006.

3:THE DEPUTY SECRETARY

REVENUE AND DISASTER DEPTT.
ASSAM
DISPUR
GUWAHATI-781006.

4:THE DY. COMMISSIONER

DIBRUGARH

DIST. DIBRUGARH
ASSAM
PIN-786001.

5:THE ADDL. DY. COMMISSIONER

DIBRUGARH
DIST. DIBRUGARH
ASSAM
PIN-786001.

6:THE CIRCLE OFFICER

DIBRUGARH REVENUE CIRCLE
DIST. DIBRUGARH
ASSAM
PIN-786001.

7:THE TEA BOARD

REP. BY ITS DY. CHAIMAN
14 B.T.M. SARANI
KOLKATA
700001
WEST BENGAL

For the petitioner (s) : Mr. B. Dutta, Sr. Advocate

Mr. S. Deka, Advocate

For the respondent (s) : Mr. Mr. R. Borpujari, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

30.08.2023

The instant writ petition has been filed seeking a writ in the nature of mandamus directing the respondent authorities to grant mutation in favour of the petitioner in respect of the land of Jamirah Tea Estate measuring 4026

bighas 1 katha 3 lechas covered by various Dag and Patta numbers situated at Mouza-Jamirah under Dibrugarh West Revenue Circle in the district of Dibrugarh (for short, 'the said land'); a writ in the nature of mandamus directing the respondent No.7 not to cancel the Tea Board Licence of the petitioner; a writ in the nature of mandamus directing the respondent No.7 to pay the subsidy amount sanctioned in favour of the petitioner under the Tea Development and Promotion Scheme to the petitioner.

2. Mr. B. Dutta, the learned senior counsel for the petitioner, upon instructions, submits that the relief as regards a direction for granting the mutation would serve the purpose and the petitioner would not insist in respect to the other reliefs and the petitioner would take appropriate steps before the Respondent Tea Board.

3. The facts involved in the instant case are that pursuant to a scheme of arrangement under Section 391 (2) and 394 of the Companies Act, 1956, the Company named Jamirah Tea Estate Private Limited stood amalgamated with the petitioner Company. The said order of amalgamation was passed by the Calcutta High Court on 04.05.2010.

4. This Court has also duly taken note of the order dated 04.05.2010 passed by the Calcutta High Court in Company Petition No.33/2010 whereby all properties of Jamirah Tea Company Limited including those specified in the first, second and third and third part of the schedule- B stood transferred with effect from the appointed date to the petitioner Company. From the scheme of amalgamation as enclosed as Annexure-4 to the writ petition, various plots of land contained in various Dag and Patta numbers situated at Jamira Tea Estate, Dibrugarh by operation of law and the order being passed by the Calcutta High Court dated 04.05.2010 stood

transferred in favour of the petitioner Company w.e.f. 01.04.2009, i.e. the Appointed Date.

5. The record further shows that the petitioner filed an application seeking mutation of the said land on the basis of the order passed by the Calcutta High Court dated 04.05.2010. The said mutation application was registered as Grant Mutation Case No.6/2012. However, the respondent authorities, on account of a communication dated 26.03.2001, had not granted the permission to the Revenue Authorities for granting the mutation in favour of the petitioner. It is under such circumstances, the petitioner has approached this Court under Article 226 of the Constitution.

6. Taking into account that the only reason why the petitioner's mutation had not been granted is the communication dated 26.03.2001, this Court finds it relevant to take note of the said communication. It transpires from the said communication that the said communication was issued as it had come to the notice of the Government of Assam that some Tea Gardens have been alienated by way of sale/gift etc. without following the rules stipulated vide letter dated 04.08.1995 and W.T. Message dated 05.03.1997. It was further mentioned that in some cases the Deputy Commissioners/Sub Divisional Officers (Civil) had reportedly allowed permission for transfer without referring the same to the Government. It was mentioned that prior approval from the Government would be mandatory in all cases and cases where such alienations have taken place, the matter may be referred to the Government in the Revenue Department for examination and approval before allowing the mutation. It was further mentioned in the said communication that when an application is received for alienation, the Deputy Commissioners/Sub Divisional Officers are required to submit detailed field verification report covering inter-alia the various points detailed therein.

7. Upon perusal of the said communication, it would be seen that it would only apply in cases where there is an alienation to be carried out by way of sale/gift etc. However, when the Companies Act, 1956 provides the mode by which Companies can enter into a scheme of arrangement and on the basis of such scheme of arrangement stipulated under Sections 391 to 394 read with Companies (Court) Rules, 1959, such scheme had been approved, it is the opinion of this Court that the said communication dated 26.03.2001 shall not come in the way in granting the mutation in favour of the petitioner herein in as much as by operation of law as well as by virtue of the order of the Calcutta High Court dated 04.05.2010, the Jamirah Tea Company Limited stood amalgamated with the petitioner Company along with all its assets and liabilities.

8. Considering the above, this Court, therefore, directs the respondent authorities, more particularly, the District Commissioner, Dibrugarh to grant the mutation in favour of the petitioner in respect to the land which stood transferred by operation of law on the basis of the scheme of amalgamation which was approved by the Calcutta High Court vide order dated 04.05.2010 in Company Petition No.33/2010. The same be done within a period of 3 (three) months from the date a certified copy of the instant order is served upon the District Commissioner, Dibrugarh.

9. Before concluding, this Court further finds it relevant to take note of the submission made by Mr. B. Dutta, the learned senior counsel for the petitioner to the effect that a direction may also be given to the Revenue Authority. It is the opinion of this Court that when a communication dated 26.03.2001 is not applicable and would not come in the way of granting mutation in favour of the petitioner for the reasons above mentioned, no direction is required to be issued to the Revenue Department, Government of

Assam.

10. With the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant