

GAHC010171092023



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

Case No. : WP(C)/4502/2023

DR. RANABIR PAUL
S/O- LATE PRADIP CHANDRA PAUL,
BIOMED SQUARE, SONAI ROAD, RANGIRKHARI POINT, SILCHAR, DIST-
CACHAR, ASSAM, PIN-788005

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT ,
DISPUR, GUWAHATI-6

2:THE DISTRICT COMMISSIONER
CACHAR
SILCHAR
ASSAM

3:THE CIRCLE OFFICER
SILCHAR SADAR CIRCLE
CACHAR
ASSAM

4:THE ASSISTANT SETTLEMENT OFFICER
SILCHAR SADAR CIRCLE
CACHAR
ASSAM

5:THE SILCHAR MUNICIPAL BOARD
REP. BY ITS EXECUTIVE OFFICER
SILCHAR
CACHAR
ASSA

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 07/08/2023

Heard Mr. M.H. Laskar, learned counsel for the writ petitioner.

The petitioner herein, claims to be a doctor by profession and is running a Diagnostic Centre along with his wife Smt. Dopati Paul, in a building by the name and style "Biomed Square" situated over a plot of land measuring 5 Katha 3 Chataks, standing over Dag No. 617 and 618 covered by second R.S. Patta No. 197 of Pargona Barakpar, Mouza- Ambicapur Part-IX in Cachar District, commonly known as "Rangirkhari Point".

As per the case projected in the writ petition, the aforesaid commercial complex was constructed after obtaining proper construction permission and also by adhering to the Building Bye-laws. After an occupancy certificate was issued by the authorities, the petitioner had occupied the building and since then, he is running the aforesaid Diagnostic Centre.

The grievance of the petitioner is that on 13/06/2023, some staff of the respondent no. 2 had arrived at his building and put a red 'X' mark on the front side of the building by indicating that a part of the building will be demolished in connection with expansion of the main road.

Mr. Laskar submits that there is nothing to indicate that demolition of the building was required for expansion of the main road. Moreover, if the front side of the building is demolished, the entire structure will collapse thereby, depriving the petitioner of his valuable property. Notwithstanding the same, the respondents are contemplating to demolish the building without serving any prior notice or

giving the petitioner an opportunity of being heard in the matter. The learned counsel for the petitioner has also submitted that on 14/06/2023, the petitioner has submitted a representation before the respondent no. 3 (Annexure-VI) expressing his apprehension and grievance in the matter. However, despite receipt of the said representation, a copy of which was also marked to the respondent no. 2, no action has been taken in the matter till date. Hence, this writ petition.

Ms. G. Hazarika, learned Standing Counsel, Revenue and DM Department, Assam, appearing for the respondent no. 1 and Mr. S. Baruah, learned Government Advocate, Assam, appearing for the respondent nos. 2, 3 & 4, submit that they be granted some time to seek instruction in the matter.

It *prima facie* appears that the building of the petitioner was erected over his private patta land by obtaining proper construction permission. The only apprehension of the petitioner is with regard to the fact that if the front side of the building is demolished without serving any prior notice upon him and without considering his grievance in the matter, the same would result in serious prejudice to his rights and interest.

There can be hardly any doubt about the fact that if a building is sought to be demolished for widening the road, the owner of the building would be entitled to appropriate notice wherein, the necessary particulars including the description of the land and the purpose for which the land/building is sought to be acquired/demolished, must be reflected. The owner would be entitled to an opportunity to be heard in that matter.

Since the petitioner has categorically averred that no such procedure has been followed in this case, I am of the opinion that keeping the writ petition pending before this Court at this stage would serve no practical purpose. As such, the writ petition is being disposed of at the stage of motion hearing by granting two weeks time to the petitioner to submit a fresh representation before the respondent no. 2 by expressing his grievance in the matter, by enclosing a certified copy of this order along with other supporting documents.

If such representation is submitted within two weeks from today the respondent no. 2 to look into the matter and after considering the facts and circumstances of the case, communicate his decision to the petitioner in writing.

Until such time, the aforesaid exercise is completed, *status quo* as regards the building of the petitioner be maintained.

If the petitioner continues to remain aggrieved even thereafter, it would be open for him to approach this Court once again by filing appropriate proceeding.

Writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant