

GAHC010174282022



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

Case No. : WP(C)/5723/2022

KUNURAM RONGHANG
S/O- MARTYR SRI NARAYAN RONGHANG ENGTI, VILL- BAR-AMRI, P.O.
LAWPANI, P.S. BAITHALANGSU, DIST.- WEST KARBIANGLONG (ASSAM),
PIN- 782425

VERSUS

THE STATE OF ASSAM AND 11 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SOIL
CONSERVATION DEPTT., DISPUR, GHY-06

2:THE DY. COMMISSIONER
WEST KARBIANGLONG
HAMREN

3:THE CIRCLE OFFICER
DONKA REVENUE CIRCLE
DONKAMOKAM
DIST.- WEST KARBIANGLONG
ASSAM
PIN- 781127

4:SRI KIRAN INGTI
S/O- LT. SUWABOR INGTI
VILL- BAR-AMRI
P.O. LAWPANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

5:SAIDUL ALI
S/O- IQBAL ALI
VILL- BAR-AMRI

P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

6:KUDUS ALI
S/O- USUF ALI
VILL- BAR-AMRI
P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

7:SULTAN ALI
S/O- AMIR ALI
VILL- BAR-AMRI
P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

8:SAHABUDDIN ALI
S/O- MATLEB ALI
VILL- BAR-AMRI
P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

9:JABINDI KHATUN
W/O- AKABORALI ALI
VILL- BAR-AMRI
P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

10:ABDUL AWAL
S/O- ABIR ALI
VILL- BAR-AMRI
P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

11:HABIZA KHATUN
W/O- ABET ALI
VILL- BAR-AMRI
P.O. LAW PANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

12:USPAN ALI
S/O- HUSSAIN ALI

VILL- BAR-AMRI
P.O. LAWPANI
P.S. BAITHALANGSU
DIST.- WEST KARBIANGLONG (ASSAM)

Advocate for the Petitioner : MD B ISLAM

Advocate for the Respondent : SC, SOIL CONSERVATION DEPTT.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

20.11.2023

Heard Shri B Islam, learned counsel for the petitioner as well as Ms. S Baruah, learned State Counsel, Assam. Also heard Ms. RS Deori, learned Standing Counsel, Soil Conservation Department, Assam whereas Shri MH Ahmed, learned counsel appears for the private respondent nos. 7, 8 and 9.

2. Considering the subject matter involved and the issue raised, this writ petition is taken up for disposal at the admission stage.

3. The petitioner claims to be the absolute owner/pattadar of a plot of land measuring 23 bigha 2 lecha under Revenue Village-Gillapatta NC Mouza-Duaramla, under Donka Revenue Circle, Donkamokam in the District of West Karbi Anglong. The said plot of land is said to be covered by Dag Nos. 84, 88, 102, 103 of Periodic Khiraj Patta No. 76. The petitioner claims to have inherited the aforesaid plot of land from his father who had passed away in the year 1983.

4. It is the case of the petitioner that out of the aforesaid land, a plot

measuring 18 bigha 3 katha 18 lecha has been covered by the private respondent and 3 bigha 2 katha and 2 lecha has been occupied by the Bhoksong Soil Conservation Range under Hamren Soil Conservation Department and in this regard, the petitioner claims to have submitted a representation dated 03.05.2017. The petitioner claims that there is a verification report of the year 2020 and further representation was filed on 18.05.2022.

5. Shri Islam, learned counsel for the petitioner has submitted that the rights of the petitioner under Article 21 have been violated and therefore, appropriate orders be passed for directing the authorities to hand over the possession of the land and/or to pay due compensation.

6. Ms. Deori, learned Standing Counsel for the Department as well as Shri Ahmed, learned counsel for the private respondents, however, raise the question of maintainability of this writ petition. It is submitted that the dispute raised is essentially of civil nature and the relief claim is of declaration of right, title and interest and recovery of khas possession.

7. The rival submissions have been duly considered.

8. The prayer made in the writ petition reads as follows:

Under the above facts and circumstances, it is, therefore humbly prayed that your Lordship would be kind enough to admit this petition, call for records, issue a Rule calling upon the Respondents to show cause as to why a writ in the nature of Mandamus/Certiorari

or any other writ/order/direction should not be issued to vacate the land of the petitioner occupied by the Bhoksong Soil Conservation Range under Hamren Soil Conservation Department and also by the private respondents and or give the value/compensation of the occupied land to the petitioner or pass such order or orders as Your Lordships may pleased to deem fit and proper.

9. The aforesaid prayer read with the facts pleaded may constitute a dispute which is essentially civil in nature wherein for all practical purposes, the relief pertains to that of declaration of right, title, interest and khas possession. The aspect that the right, if any, had accrued to the petitioner in the year 1983 would also be a relevant factor. The submission made on behalf of the petitioner that his rights under Article 21 have been violated though may be a relevant factor, the same would not vest upon this Court the jurisdiction to enter into the questions of fact which are disputed and also *prima facie* appear to be civil in nature wherein question of adducing evidence to establish the respective rights of the parties would arise. The instant petition cannot constitute a grievance that would come within the ambit of the writ jurisdiction of this Court.

10. In view of the above, this writ petition is dismissed.

JUDGE

Comparing Assistant