

GAHC010174382021



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

Case No. : WP(C)/5594/2021

RANA CONSTRUCTION AND ENGINEERS PVT. LTD.
A PVT. LTD. CO REGISTERED UNDER THE COMPANIES ACT 1956 HAVING
ITS REGISTERED OFFICE AT SURAJ COMPLEX, ULUBARI, GUWAHATI,
REPRESENTED BY ITS DIRECTOR, RANA SAIDUR ZAMAN, AGED ABOUT
49 YEARS, S/O LATE ALHAJ RAHMAN ALI, R/O 62, RAHMAN MANSION,
SOUTH SARANIA, P.O. ULUBARI, P.S. PALTANBAZAR, KAMRUP (M),
ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, REVENUE AND DISASTER MANAGEMENT DEPTT., DISPUR,
GUWAHATI, ASSAM, PIN 781006

2:THE DEPUTY COMMISSIONER

KAMRUP (R)
AMINGAON
GUWAHATI
ASSAM
PIN 781034

3:THE CIRCLE OFFICER

NORTH GUWAHATI REVENUE CIRCLE
AMINGAON
GUWAHATI
ASSAM
PIN 78103

Advocate for the Petitioner : MR. B C DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 29-05-2023

Heard Mr. B.C. Das, learned Senior counsel assisted by Mr. D.N. Bhattacharjee, learned counsel for the petitioner; Mr. D. Nath, learned Senior Government Advocate appears on behalf of the respondent State & Mr. A. Bhattacharyya, the learned counsel appears for the Revenue and Disaster Management Department.

2. The instant writ petition has been filed by the petitioner challenging the order of eviction dated 06.10.2021, issued by the Circle Officer, North Guwahati Revenue Circle, Amingaon, Guwahati as well as for consequential reliefs on the basis of the said directions.

3. A perusal of the materials on record shows that admittedly, the petitioner in a possession of Government land pertaining to dag No. 116 (Govt) of village Dirgheswari under Borbongshar Mouza for the purpose of carrying out the various contractual works for road constructions. The petitioner claims to have come into possession of this particular land by taking a lease from a person, who was otherwise in possession of that land. The learned Senior Counsel fairly submits that at present the construction works in question have been completed. However, the petitioner requires to keep the land for some time for the purpose of maintenance of the roads in question inasmuch as in the land in question, the petitioner had installed the Hot Mix plant and it is the requirement

of the engineering specification that for using Hot Mix, it has to meet a particular temperature and as such, if the petitioner is evicted from the such land, it would not only cause a great amount of difficulty to the petitioner for carrying out his contractual work for the purpose of maintenance but would also effect the public interest inasmuch as maintenance of the road is also in public interest.

4. On the other hand, Mr. D. Nath, the learned Senior Government Advocate submits that the petitioner has no right to remain in possession of the Government land unless and until the Government permits him to do so in terms with Rule-16 of the Settlement Rules. He therefore submits that the question of interference with the said order dated 06.10.2021, requires no interference. The learned Senior Government Advocate further submitted that merely because of the fact that the petitioner has obtained the lease from a person, who is otherwise not authorized would not give him any right to continue to remain in possession of the said land.

5. Upon hearing of the learned counsel for the parties and upon perusal of the materials on record, this Court is of the opinion that the question of interference with the order dated 06.10.2021, does not arise in view of the fact that the petitioner does not have any right to posses in the Government land in question. The Assam Land Revenue Regulations, 1886 as well as the Rule framed therein under categorically mandates when a person would have a right to possession, Rule 16 of the Settlement Rules is specific and unambiguous in that respect. Further, Rule 18 of the Settlement Rule empowers the authority i.e the Deputy Commissioner or the authorities delegated under Rule 3(ii) of the Settlement Rules to exercise the power under Rule 18 of the Settlement Rule. Under such circumstances, as the exercise of jurisdiction by the authority in passing the

impugned order is within the confines of law, this Court is not inclined to interfere with the impugned order for which the petition stands dismissed.

7. Be that as it may, the dismissal of instant writ petition would not preclude the petitioner to approach the concerned respondent authorities including the PWD to make available an area for setting up Hot Mix Plant for the maintenance of the road in question and it shall be absolutely within the discretion of the said authorities to consider the request of the petitioner.

JUDGE

Comparing Assistant