

GAHC010174722023



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

Case No. : WP(C)/4612/2023

DALILUR RAHMAN
S/O- LATE MOKBUL HUSSAIN, R/O- ONDOLAJHAR, P.O. AND P.S. DHULA,
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, LAND REVENUE AND DISASTER
MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE DISTRICT COMMISSIONER KAMRUP(M)
GUWAHATI
P.O. HENGRABARI
DIST. KAMRUP(M)
ASSAM
PIN- 781036.

3:THE ADDITIONAL DEPUTY COMMISSIONER (REVENUE BRANCH)

KAMRUP(M)
GUWAHATI
ASSAM
PIN- 781023.

4:THE CIRCLE OFFICER

GUWAHATI REVENUE CIRCLE
PANBAZAR
DIST. KAMRUP(M)
ASSAM
PIN- 781001

For the Petitioner(s) : Mr. M. Khan, Advocate
For the Respondent(s) : Mr. R. Borpujari, Government Advocate
: Ms. M. Barman, Junior Government Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 08.09.2023

1. The instant writ petition has been filed by the Petitioner being aggrieved by the delay in disposal of his mutation application by the concerned Revenue Authorities.
2. The facts as could be discerned from a perusal of the writ petition are that a plot of land measuring 2.26 Are covered by Dag No.400 of KP Patta No.1 (45 Sana) at Revenue Village Sahar, Kharguli Mouza, Ulubari in the District of Kamrup (M) at Guwahati was transferred vide the Deed of Sale bearing Deed No.8396 dated 22.08.2019 in favour of the Petitioner. It is further evident from a perusal of the Annexure-2 of the writ petition that prior to the execution of the Deed of Sale, the necessary permission was also granted by the Office of the Deputy Commissioner, Kamrup (M) on 26.02.2019 wherein it has also been mentioned that the intended use of the land was to be used as residential. The Petitioner upon purchase of the said land vide the said registered Deed of Sale, applied for mutation before the Circle Officer, Kamrup (M) which was registered as GM Case No.19/2019-20.
3. It reveals from the records that pursuant to the filing of the application, on 06.03.2020 the Circle Officer, Guwahati issued a communication to the Deputy

Commissioner, Kamrup (M) forwarding the report of the Lat Mondal in respect to the said land. It is further apparent that vide an order dated 08.03.2021, the Additional Deputy Commissioner, Kamrup (M) taking into account that the land falls in an F.S. Grant referred the matter to the Secretary, Government of Assam, Revenue and Disaster Management Department for approval. It is further seen from the records that the Joint Secretary to the Government of Assam, Revenue and Disaster Management Department thereupon issued a communication to the Deputy Commissioner, Kamrup (M) in relation to the mutation case of the Petitioner and thereby requesting the Deputy Commissioner, Kamrup (M) to provide certain information as detailed therein. The said information thereupon was furnished to the Revenue and Disaster Management Department.

4. The records further shows that on 23.02.2022, the Joint Secretary to the Government of Assam, Revenue and Disaster and Management Department had issued another communication to the Deputy Commissioner, Kamrup (M), Guwahati thereby returning the proposal and seeking various instructions as detailed out in the said communication. It is further seen that to the said communication, the Office of the Deputy Commissioner, Kamrup (M) had provided the information. Be that as it may, nothing has happened in respect to the mutation case of the Petitioner for which the instant writ petition has been filed.

5. I have heard the learned counsel for the parties and also perused the materials on record. This Court have duly taken note of the order dated 14.08.2023 passed by this Court whereby instructions were sought from the Government Advocate representing the Office of the Deputy Commissioner, Kamrup (M). The instructions which have been placed by Ms. M. Barman, the learned Junior Government Advocate have also been perused.

6. Before dealing with the entitlement of the Petitioner, this Court finds it relevant to take note of the well settled principles of law that mutation does not confer any title and mutation is done by the Revenue Authorities only for the purpose of determination and collection of Revenue. From a perusal of the materials on record and more particularly the Deed of Sale, it is seen that the land had already been transferred in favour of the Petitioner after following the required formalities in terms with the Registration Act, 1908 as well as the Transfer of Property Act, 1882. Accordingly, the right over the land in question by operation of law vests upon the Petitioner. It is also seen from a perusal of Annexure-18 to the writ petition that the Respondent Authorities have granted mutation in favour of the vendor of the Petitioner and as such, this Court sees no reason why the Petitioner who is the owner of the land should be deprived of the mutation more so when the intention or the purpose for granting mutation is clear on the basis of the well settled principles of law.

7. Taking into account the above, this Court therefore directs the Deputy Commissioner, Kamrup (M) either by himself or through his delegatee pass appropriate orders on the application for mutation within a period of 2 (two) months from the date a certified copy of the instant order is served upon the Deputy Commissioner, Kamrup (M).

8. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant