

GAHC010175582023



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

Case No. : WP(C)/4555/2023

BISHARATH PHUKAN
SON OF LATE SASHIDHAR PHUKAN,
RESIDENT OF PHOOL BAGAN, NEAR ZILAPARISHAD,
POLICE STATION DIBRUGARH,
DISTRICT- DIBRUGARH, ASSAM,
PIN- 786001.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER
DIBRUGARH
DISTRICT- DIBRUGARH
ASSAM

PIN- 786001.

3:THE CIRCLE OFFICER
DIBRUGARH EAST REVENUE CIRCLE
DISTRICT- DIBRUGARH
ASSAM

PIN- 786001

For the Petitioner	: Ms. D. Ghosh, Legal Aid Counsel.
For the Respondents	: Mr. A. Bhattacharjee, Advocate. Mr. S. Baruah, Advocate.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER**

21.08.2023

The instant writ petition has been filed by the Petitioner challenging the notice dated 31.7.2023 issued by the Circle Officer, Dibrugarh East Revenue Circle, Dibrugarh.

2. The case of the petitioner herein is that the father of the petitioner was permitted to run a Tea Stall on a 1200 sq. feet land in the premises of the Office of the Settlement Officer. This aspect of the matter would be seen from the communication dated 14.11.1974 issued by the then Assistant Deputy Commissioner, Dibrugarh. It further reveals from the record that the petitioner's father and thereupon the petitioner continued to run the said Tea Stall measuring 1200 sq. feet paying rent by way of a Treasury Challan since then and till date. It is further seen that the said rent has also been increased in the meantime.

3. Be that as it may, the Circle Officer, Dibrugarh East Revenue Circle had issued a notice on 31.07.2023 directing the petitioner to vacate the place before 15th of August, 2023 and it is under such circumstances, the instant writ petition has been filed.

4. This Court had issued notice vide order dated 08.08.2023 making it returnable today.

5. Mr. A. Bhattacharjee, the learned counsel appearing on behalf of the Revenue submitted that though the Petitioner have been allowed to run the Tea Stall, but there has been no specific allotment of land made in favour of the Petitioner and as such the notice dated 31.7.2023 is in accordance with the provisions of law.

6. I have heard the learned counsels for the parties and have also perused the materials on record.

7. From a perusal of the materials on record, it transpires that the Petitioner was permitted to set up a Tea and Sweet Stall in the premises of the Office of the Settlement Officer vide an order passed by the Additional Deputy Commissioner, Dibrugarh on 14.11.1974. Pursuant thereto, the father of the Petitioner and presently the Petitioner have been running the said Tea and Sweet Stall in the area of 1200 sq. feet since then till date. It is the opinion of this Court as the Petitioner have been in permissible possession over the land in question, the Revenue Authorities i.e. the Circle Officer, Dibrugarh Revenue Circle cannot exercise the power under Rule 18 of the Settlement Rules to evict the Petitioner. Accordingly the said notice dated 31.7.2023 is set aside and quashed.

8. Be that as it may, this Court further observes that the setting aside and quashing the notice dated 31.7.2023 and also the observations made that the Revenue Authorities cannot take recourse

to Rule 18 of the Settlement Rules to evict the Petitioner, would not bar the Revenue Authorities to take such action as permissible under law.

9. With the above directions and observations, the writ petition stands disposed.

JUDGE

Comparing Assistant