

GAHC010185842018



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

Case No. : WP(C)/5803/2018

SRI BROJEN GAYAN

S/O- LT LOKENDRA NATH GAYAN, R/O- VILL- WARD NO 3, PO SIVASAGAR,
P.S. SIVASAGAR, DIST- SIVASAGAR, ASSAM, PIN- 785640

VERSUS

THE STATE OF ASSAM AND 5 ORS.
THROUGH THE COMM. AND SECY. AND REVENUE REFORM AND
DISASTER MANAGEMENT, DISPUR, GHY-6

2:THE DY. COMMISSIONER
SIVASAGAR
PIN- 785640

3:THE CIRCLE OFFICER
SIVASAGAR REVENUE CIRCLE
VILL AND PO SIVASAGAR
DIST- SIVASAGAR
PIN- 785640

4:BINANDA BORAH(DAS)
S/O LATE RUKHESWAR BORAH
R/O THANAMUKH
OLD CHALK BAZAR ROAD
WARD NO.3
NEAR POLICE STATION
SIVASAGAR TOWN
P.O
P.S AND DIST. SIVASAGAR
PIN 785640

5:JAYA BORAH
D/O LATE RUKHESWAR BORAH

R/O THANAMUKH
OLD CHALK BAZAR ROAD
WARD NO.3
NEAR POLICE STATION
SIVASAGAR TOWN
P.O
P.S AND DIST. SIVASAGAR
PIN 785640

6:BHONI BORAH
D/O LATE RUKHESWAR BORAH
R/O THANAMUKH
OLD CHALK BAZAR ROAD
WARD NO.3
NEAR POLICE STATION
SIVASAGAR TOWN
P.O
P.S AND DIST. SIVASAGAR
PIN 78564

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 27-03-2023

Heard Mr. B Borah, learned counsel for the petitioner. Also heard Mr. N Goswami, learned counsel for the respondent Nos. 2 and 3 as well as Ms. G Hazarika, learned counsel for the respondent No. 1. No one appears for the respondent Nos. 4, 5 and 6.

2. Notice has been issued twice upon respondent Nos. 4, 5 and 6 by registered post, the last one being issued on 03.02.2023. Besides the above, the petitioner had also taken steps for service of notice upon respondent Nos. 4, 5 and 6 by way of *Dasti* service. As this Court had found it difficult to ascertain

whether notice had been served by way of *Dasti* service upon the respondent Nos. 4, 5 and 6 earlier, fresh steps were ordered to be taken vide order dated 31.10.2022. The petitioner has submitted an affidavit dated nil February, 2023, which states that the respondent Nos. 4, 5 and 6 refused to take service of the notice. Accordingly, this Court is of the view that notice is deemed to be served upon the respondent Nos. 4, 5 and 6.

3. The case of the petitioner is that he purchased a plot of land measuring 03 kathas and 07 lechas covered by Dag No. 1155 and Patta No. 2056 at Sivasagar Town under Nagar Mahal Mouza. Thereafter, the petitioner instituted a mutation case vide Mutation Case No. 92/1986-1987, which was allowed. Accordingly, his name alongwith the names of his brother and sister were entered in the land revenue records for the said plot of land. As it was alleged that one of his neighbours had illegally trespassed upon the land, the petitioner approached the authorities with a prayer to demarcate his land. Though the respondent No. 3 initiated the process to demarcate the said land fixing 21.12.2010 for the said purpose, the process could not be completed due to the absence of the neighbour. The petitioner's prayer in this writ petition is that a direction should be issued to the respondent Nos. 2 and 3, to demarcate the petitioner's family land and to restore possession of the petitioner's land after demarcation.

4. Mr. N Goswami, learned counsel for the respondent Nos. 2 and 3 and Ms. G Hazarika, learned counsel for the respondent No. 1 submit that they have no objection if a direction is issued to the respondent No. 3, to demarcate the petitioner's land and take necessary steps thereafter.

5. In view of the consent of the parties, the respondent No. 3 is directed to demarcate the land allegedly belonging to the petitioner's family measuring 03 kathas and 07 lechas covered by Dag No. 1155 and Patta No. 2056 at Sivasagar

Town under Nagar Mahal Mouza and take necessary steps it deems fit and proper thereafter. The said demarcation should be concluded by the respondent No. 3, within a period of 1 (one) month from the date of receipt of a certified copy of this order and after giving an opportunity of hearing to any person, who has allegedly encroached upon the land of the petitioner.

This writ petition stands disposed of accordingly.

JUDGE

Comparing Assistant