

GAHC010188172021



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

Case No. : WP(C)/6074/2021

PRANJAL JYOTI BORAH
S/O LATE BADAN CH. BORAH,
VILLAGE BAHANA NATH GAON, DIST JORHAT ,ASSAM, 785101

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM IRRIGATION DEPARTMENT, DISPUR GUWAHATI 781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
DEPARTMENT OF LAND REVENUE AND DISASTER MANAGEMENT
DISPUR
GUWAHATI 781006

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE
DISPUR GUWAHATI 781006

4:THE CHIEF ENGINEER

IRRIGATION DEPARTMENT
ASSAM
CHANDMARI
GUWAHATI 3
KAMRUP M ASSAM

5:THE DEPUTY COMMISSIONER

JORHAT ASSAM. 785001

6:THE EXECUTIVE ENGINEER

JORHAT DIVISION (IRRIGATION) JORHAT
ASSAM 785001

7:THE ASSISTANT EXECUTIVE ENGINEER

JORHAT
ASSAM 78500

Advocate for the Petitioner : MR H BEZBARUA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 02.06.2023

Heard Mr. H. Bezbarua, the learned counsel appearing on behalf of the petitioner and Mr. N. Upadhyay, the learned Standing counsel appearing on behalf of the respondent Nos. 1, 4, 6 and 7. I have also heard Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the respondent Nos. 2 and 3 and Mr. N. Gowami, the learned Standing counsel appearing on behalf of the respondent No.5.

2. The instant writ petition is taken up for disposal at the motion stage taking into account the facts involved and the limited question of law that arises for consideration.

3. The facts of the instant case is that the petitioner claims to be the owner of land measuring 4 Kathas of land covered by Dag No.1300 of Patta No.135 of

revenue Village of Moutgaon, Mouza Charigaon in the District of Jorhat. It is the case of the petitioner that in the year 2000, the land of the petitioner was acquired by the officials of the respondent No.7 for construction of a water tank without following the due procedure of law. The petitioner on various occasions have requested for payment of compensation to the respondent No.7 but the same have not been paid for which the instant writ petition has been filed.

4. It appears from a perusal of the affidavit so filed that the petitioner was 33 years old in the year 2021 meaning thereby in the year 2006, the petitioner was a major. It is the further case of the petitioner that the petitioner's father expired in the year 2007 and the land was recorded in his name and admittedly the father of the petitioner never made any claim against the respondent No.7. It further appears from Annexure-1 to the writ petition that after the death of the petitioner's father, petitioner's name was mutated in the year 2015 in respect to the said land meaning thereby the said patta number as well as the dag number are not a Government land or have been acquired by the Government. Therefore there arises no question that the land of the petitioner was acquired by the Government that too in the year 2000 when the petitioner's name was recorded in respect to the said dag and patta number along with others in the year 2015.

5. Be that as it may, there might be a case of illegal dispossession or encroachment by the respondent No.7 over the petitioner's land but this fall within the realm of disputed questions of facts which this Court cannot decide. Under such circumstances, this Court is not in a position to accede to the prayer as sought for in the writ petition however leaving the petitioner to take such recourse to law as may be advised.

6. With above, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant