

GAHC010196862023



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

Case No. : WP(C)/5106/2023

KUMKUM LASKAR SAIKIA
W/O- LATE PUSPENDRA SAIKIA, R/O- VILL.- HENGRABARI, BARBARI
(HILLOCK) NEAR PWD COLONY, SANKAR NAGAR, P.S. DISPUR, SUB-
DIVN- KAMRUP, DIST. KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE DEPTT., DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
KAMRUP(M)
HENGRABARI
GUWAHATI-36.

3:THE COMMISSIONER OF GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-1.

4:THE ADDITIONAL DEPUTY COMMISSIONER (REVENUE)

HENGRABARI
GUWAHATI-36
DIST. KAMRUP(M)
ASSAM

5:THE CIRCLE OFFICER

DISPUR REVENUE CIRCLE
BASISTHA
GUWAHATI-29

DIST. KAMRUP(M)
ASSA

For the Petitioner(s) : Mr. M. J. Baruah, Advocate
: Ms. B. Majumdar, Advocate

For the Respondent(s) : Mr. R. Borpujari, SC, Revenue Department

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 01.09.2023

1. The instant writ petition is taken up for disposal at the motion stage taking into account the issue involved.
2. The Petitioner had purchased the possessory rights of a plot of land measuring 1 Katha 5 Lechas covered by old Dag No.192 presently new Dag Nos. 942 and 982 situated in Barbari Hillock under Beltola Mouza, Circle Dispur in the District of Kamrup (M), Assam from one Mr. Uday Chandra Bungrung. This purchase was made sometime in the year 2010 on the basis of an unregistered Deed of Sale.
3. It further reveals that pursuant to the Basundhara 2.0 Scheme announced by the Government of Assam, the Petitioner filed an application on 31.12.2022 seeking allotment of the said land. The said application as per the Petitioner is still pending.
4. Be that as it may, on 08.08.2023, an eviction notice was issued by the Circle Officer, Dispur Revenue Circle stating inter alia that the Petitioner is in illegal possession of Government land of Beltola Mouza 1 Hengrabari, (Barbari Hillock) Village covered by Dag No.942 and 982 and the Petitioner was therefore

directed to vacate the said land within 14 days. It is under such circumstances, the Petitioner has approached this Court by filing the instant writ petition.

5. This Court upon hearing the learned counsels for the parties and also taking into account the present Assam Land Policy, 2019 wherein at Clause 14.6, it has been mentioned that there cannot be any allotment of land in respect to water bodies, hills, ecological sites and vulnerable to landslide and erosion, is of the opinion that as the Petitioner is in occupation in Barbari Hillock, the question of granting settlement to the Petitioner in the said area does not arise in view of the present Land Policy of Assam.

6. The learned counsel for the Petitioner however submits that the Petitioner had been residing in the said land by constructing houses and as such the State of Assam being a welfare State cannot evict the Petitioner in such a manner by not granting any rehabilitation. The learned counsel for the Petitioner further submitted that recently, the Supreme Court in the case of **Debabrata Saikia Vs. State of Assam** though did not interfere with the eviction but directed the Deputy Commissioner to pass reasoned orders within 6 months on the question of rehabilitation.

7. This Court upon hearing the learned counsels for the parties is of the opinion that the question of interfering with the eviction notice dated 08.08.2023 does not arise. However, for the interest of justice, this Court gives the liberty to the Petitioner to file a representation within 2 (two) weeks from today before the Principal Secretary to the Government of Assam, Revenue and Disaster Management Department seeking rehabilitation over any land as may be deemed conducive. This Court further directs that if within the period of 14 days from today, the Petitioner files a representation before the Principal Secretary to the Government of Assam, Revenue and Disaster Management

Department, the said authority shall decide such application by passing a reasoned order within 30 days therefrom. It is further observed that till the decision is made by the Principal Secretary to the Government of Assam, Revenue and Disaster Management Department, the Respondent Authorities shall not give effect to the notice dated 08.08.2023.

8. It is further clarified that if the said representation is not submitted within 14 days from today, the Respondent Authorities would be at liberty to take such action as deemed proper in terms with the eviction notice dated 08.08.2023.

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

JUDGE

Comparing Assistant