GAHC010218912023

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

Case No. : WP(C)/5692/2023

NITUL CHANDRA LAHKAR AND ANR.
SON OF LATE DILIP KUMAR LAHKAR, RESIDENCE OF VILL- HOUSE NO. 4, BISHNU NAGAR, SANTIRAM KRO PATH, 01 NO. MOTHGARIA, PATHARQUARY, P.S. NOONMATI, IN THE DISTRICT OF KAMRUP (M), GUWAHATI-71, ASSAM, INDIA

2: SRI BUBUL CHANDRA LAHKAR
SON OF LATE DILIP KUMAR LAHKAR
RESIDENCE OF VILL- HOUSE NO. 4
BISHNU NAGAR
SANTIRAM KRO PATH
01 NO. MOTHGARIA
PATHARQUARY
P.S. NOONMATI
IN THE DISTRICT OF KAMRUP (M)
GUWAHATI-71
ASSAM
INDI

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF LAND AND REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE DISTRICT COMMISSIONER
KAMRUP (M)
GUWAHATI
ASSAM

3:THE CHIEF EXECUTIVE OFFICER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGHAR

KAMRUP (M)
GUWAHATI
ASSAM

4:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
KAMRUP (M)
GUWAHATI
ASSA

Advocate for the Petitioner : MRS. B TALUKDAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 27-09-2023

Heard Mrs. B. Talukdar, learned counsel for the writ petitioners.

The writ petitioners have approached this Court by filing the instant writ petition apprehending eviction from the land under their occupation.

Mrs. Talukdar submits that although no eviction notice has yet been served upon the petitioner, yet the officials from the GMDA had arrived at the location and embedded some 'posts' therein. According to the writ petitioners, the land under their occupation are not located within the surveyed area marked as 'G' which falls within the greater area of "Silsako Beel". Mrs. Talukdar has, however, fairly admitted that her clients are in occupation of "sarkari land" in respect of which, applications for allotment are yet to be submitted.

After hearing the submission of learned counsel for the writ petitioners, it appears that the primary prayer of the petitioners is to the effect that they should not be evicted without serving prior notice.

Ms. N. Bordoloi, learned standing counsel, Revenue & DM Department, Assam has fairly submitted that notices will be served upon the petitioners before any eviction process is undertaken in respect of their houses. The learned departmental counsel has, however, submitted that the petitioners being in occupation of the "sarkari land", would not have any right to claim possession or title over such land unless a specific order of allotment of land is made in their favour by the competent authority. In support of her above submission, Ms. Bordoloi has relied upon an order dated 31-07-2023 passed by the learned Single Judge in W.P.(C) No. 3273/2023 to submit that similar writ petition had earlier been dismissed by this Court by granting time to the petitioners to vacate the land on their own. The learned standing counsel has, however, admitted that no notice of eviction has yet been served upon the any of the writ petitioners. Similar is the stand of Mr. J. Handique, learned Addl. Sr. Govt. Advocate, Assam and Ms. S. Chutia, learned standing counsel, GMDA appearing for the respondent No. 3.

Having regard to the facts and circumstances of the case and the submission made at the bar, this writ petition is hereby disposed of by providing that if the respondents propose to evict the petitioners from the land under their occupation, than in that event, prior notice in writing, granting them at least 15 days time to vacate the land, shall be served upon each of the petitioners individually, by giving proper description of the land in the respective notices.

Upon receipt of such notices, it will be open for the petitioners to vacate the land on their own. If the petitioners fail to comply with the notices, it will be open for the respondents to proceed in the matter in accordance with law.

With the above observation, this writ petition stands disposed of.

JUDGE

GS

Comparing Assistant