

GAHC010219682021



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

Case No. : WP(C)/7089/2021

AJAY KUMAR AGARWALLA (BAJAJ) @ SRI AJAY KUMAR BAJAJ
(AGARWALLA)
S/O- SAWARMAL AGARWALLA,
R/O VILLAGE- JONAI BAZAR,
P.O AND P.S-JONAI,
DISTRICT- DHEMAJI, ASSAM, PIN- 787060

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, REVENUE AND
DISASTER MANAGEMENT DEPARTMENT, DISPUR, GHY-06, ASSAM

2:THE DEPUTY COMMISSIONER
DISTRICT- DHEMAJI
ASSAM

3:SUB DIVISIONAL OFFICER
(CIVIL)
JONAI DISTRICT- DHEMAJI
ASSAM PIN-787060

4:THE CIRCLE OFFICER
JONAI REVENUE CIRCLE
DISTRICT- DHEMAJI
PIN-787060 ASSA

Advocate for the Petitioner : MR. B GOGOI

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

07.08.2023

The instant writ petition has been filed challenging the eviction notice No.J.R.C.-14/Part-3/2019-21 dated 03.02.2021 as well as also for a direction upon the respondents to consider the case of the petitioner for settlement of the rest of the land measuring 2 kathas 5 lechas in favour of the petitioner at the earliest.

2. From the records, more particularly, from Annexure 1 & 2 of the writ petition it reveals that the petitioner Sri Ajay Kumar Agarwalla (Bajaj) is the owner of a plot of land measuring 1 katha 3 lechas of land covered by Dag No.108 of KP Patta No.24 as well as a plot of land measuring 10 lechas covered by Dag No.107 of KP Patta No.144 of Dhemaji, Jonai, Lot No.1, Murkangchelek No.1 under Sub-Division, Jonai and within the district of Dhemaji.

3. It further appears that on 03.02.2021, the Circle Officer, Jonai Revenue Circle had issued notice to the petitioner stating inter-alia that the petitioner was illegally occupying the land on National Highway No.515 and the petitioner was directed to remove his house and shop from the illegally occupied land within 15 days.

4. Being aggrieved, the petitioner is before this Court challenging the said eviction notice.

5. From a perusal of the said impugned notice dated 03.02.2021 it is seen that the said impugned notice is vague and does not contain any material particulars in as much as there is no mention as to the area of the land under unauthorized occupation of the petitioner as well as there

is no reference to the boundaries or the number in the Record of Settlement or survey in respect to which the petitioner has been alleged to be under unauthorized occupation.

6. Taking into account that the said notice dated 03.02.2021 is vague and does not contain any material particulars, the said notice is set aside and quashed.

7. Mr. B. Gogoi, the learned counsel for the petitioner further submits that there is a prayer made in the writ petition that the respondents be directed to consider the case of the petitioner for settlement of the rest of the land measuring 2 kathas 5 lechas in favour of the petitioner.

8. However, there is nothing on record to show that the petitioner has submitted any representation before the concerned authority. Under such circumstances, it would not be proper on the part of this Court to issue a direction upon the respondent authorities. However, the petitioner is granted the leave to apply for the same before the concerned respondent authorities as per the extant laws and the land policy of the Government of Assam.

9. Before parting with the record, this Court further finds it relevant to observe that setting aside and quashing the notice dated 03.02.2021 shall not preclude the respondent authorities to take further steps as deemed proper in accordance with law.

JUDGE

Comparing Assistant