

GAHC010233902013



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

Case No. : WP(C)/2425/2013

RAMADHAR SINGH
S/O LATE BRIJ SINGH, TOWN- DOKMOKA, WARD NO.4, P.O. DOKMOKA,
DIST- KARBI ANGLONG, ASSAM, PIN-782441

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT.OF ASSAM, MUNICIPAL
ADMINISTRATION, DISPUR, GHY-6

2:THE KARBI ANGLONG AUTONOMUS COUNCIL
REPRESENTED BY ITS SECRETARY
DEPTT. OF MUNICIPAL ADMINISTRATION
KAAC
DIPHU
P.O. DIPHU
DIST- KARBI ANGLONG
ASSAM

3:THE DOKMOKA TOWN COMMITTEE
REPRESENTED BY ITS CHAIRMAN
P.O. DOKMOKA
DIST- KARBI ANGLONG
ASSAM
PIN-782441

4:THE CHAIRMAN OF DOKMOKA TOWN COMMITTEE
P.O. DOKMOKA
DIST- KARBI ANGLONG
ASSAM
PIN-78244

Advocate for the Petitioner : MR.S K SINGH

Advocate for the Respondent : MRJ CHUTIA

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 14-06-2023

There is no representation on behalf of the petitioner today on call. Though the petitioner is not represented, Mr. M. Chetia, learned Junior Government Advocate, Assam appearing for the respondent no. 1 and Mr. J. Chutia, learned Standing Counsel, Karbi Anglong Autonomous Council [KAAC] have drawn attention to the notice dated 06.11.2012 issued by the Chairman, Dokmoka Town Committee [the respondent no. 3] to the petitioner, which has given rise to the cause of action to prefer the instant writ petition under Article 226 of the Constitution of India.

2. It is the case of the petitioner that he has been issued a Myadi Patta bearing Periodic Patta no. 51 for a plot of land measuring 10 lessas, covered by Dag no. 68/202 and located in Ward no. 4, Dokmoka Town [‘the subject-land’, for short]. The Myadi Patta was issued to the petitioner by the respondent KAAC for the subject-land in the year 1966 and since then, the petitioner is in continuous occupation of the subject-land.

3. By the notice dated 06.11.2012, the respondent no. 4, who was the Chairman of the Dokmoka Town Committee [the respondent no. 3], directed the petitioner to shift from and vacate the subject-land within 2 [two] weeks from the date of issuance of the notice, else legal action would be taken against him in the greater interest of public service. In the notice, it was stated that the subject-land has been provided to Dokmoka Town Committee.

4. A counter affidavit has been filed by the respondent no. 1 on 21.08.2013. Though the notice upon the respondent no. 3 and the respondent no. 4 were duly served, as reflected in the office of note dated 09.08.2018, the respondent no. 3 and the respondent no. 4 had chosen not to enter appearance to controvert the case pleaded by the petitioner in the writ petition.

5. The respondent no. 1 in its counter affidavit has asserted that Dokmoka Town Committee, Karbi Anglong did not inform the Government that the subject-plot was required by it. It is further stated that a plot of land can be requisitioned/acquisitioned only after following the provisions of Section 67 of the Assam Municipal Act, 1956.

6. Mr. Chutia, learned Standing Counsel, KAAC has submitted that from the documents annexed by the petitioner in the writ petition, more particularly, the Periodic Patta no. 51 and the copy of the Jamabandi, it *prima facie* appears that the petitioner is the owner by a periodic patta land and such land cannot be acquired without following the due process of law.

7. The fact that the petitioner is the owner of the subject-land is not denied by any of the respondents. From the copies of the Periodic Patta no. 51 and the Jamabandi, it *prima facie* appears that the petitioner is the owner of the subject-land. In the above obtaining facts and circumstances emerging from the case papers, this Court is of the considered view that the petitioner has made out a case that the notice dated 06.11.2012 issued by the respondent no. 4 on behalf of the respondent no. 3 is not sustainable in law and is liable to be set aside. It is accordingly set aside and the writ petition is allowed to that extent. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant