

GAHC010243992023



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

Case No. : WP(C)/7430/2023

MUKTI NATH SAHARIA
S/O LATE DURJODHAN SAHARIA, R/O VILL-MAROI, P.O.-MAROI, MOUZA-
SHIPAJHAR, DIST-DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT, JANTA
BHAWAN, DISPUR, GUWAHATI-781006

2:THE DEPUTY COMMISSIONER
DARRANG DISTRICT
MANGALDOI
ASSAM

3:THE SUPERINTENDENT OF POLICE
DARRANG DISTRICT
MANGALDOI
ASSAM

4:THE CIRCLE OFFICER
SIPAJHAR REVENUE CIRCLE
SUB-DIVISION MANGALDOI
DIST-DARRANG
ASSAM

5:THE OFFICER-IN-CHARGE
SIPAJHAR POLICE STATION
DIST-DARRANG
ASSA

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

21.12.2023

Heard Mr. R. Sarma, learned counsel for the petitioner; Mr. A. Bhattacharjee, learned Standing Counsel, Revenue Department for the respondent no. 1 and Ms. S. Baruah, learned Junior Government Advocate, Assam for the respondent ns. 2 – 5.

2. The case projected in this writ petition by the petitioner, seeking to invoke the extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India, is that the petitioner is an owner of a plot of land measuring 1 Bigha 1 Katha 5 Lessas, covered by Dag no. 2347 & Kheraj Periodic Patta no. 500, situate at Village – Maroi Gaon, Mouza – Sipajhar [‘the subject-plot’, for short]. After purchase of the subject-plot, the name of the petitioner stood mutated in the revenue records in respect of the subject-plot. The petitioner has stated that he has been paying revenue in respect of the subject-plot and is in possession of the subject-plot.

2.1. The petitioner has contended that an application was filed by him before the Executive Magistrate, Mangaldoi on 20.02.2020 for drawing up a proceeding under Section 107, Code of Criminal Procedure [CrPC], 1973 as there is apprehension of breach of peace and disturbances of public tranquility. It has been stated that on receipt of the said application, the Executive Magistrate, Mangaldoi forwarded the said application to the Officer In-Charge, Sipajhar Police Station for causing an enquiry and to submit a report by making endorsement in the body of the said application. Alleging inaction on the part of the respondent authorities thereafter, to proceed with and to complete the enquiry, the petitioner has preferred the instant writ petition seeking *inter alia* a direction to the respondent authorities to complete the enquiry, stated to have been initiated after submission of his application on 20.02.2020.

3. From the contents of the application submitted by the petitioner before the Executive Magistrate, Mangaldoi on 20.02.2020, it can be noticed that the petitioner had made one private individual as the sole 2nd party therein. In the application, the allegation was made to the effect that the 2nd party was trying to dispossess the petitioner from the subject-plot. It was stated therein that the said 2nd party was a neighbour of the petitioner and the petitioner purchased the subject-plot only from him. Allegations were also made to the effect that the 2nd party used to utter slang words whenever he used to meet the petitioner and used to roam around during nights by carrying arms in the vicinity of the subject-plot.

4. There is no whisper in the writ petition as to what steps the petitioner had taken after 20.02.2020. There is, however, a bald plea that the petitioner had approached the Executive Magistrate, Mangaldoi on 18.06.2020, 25.03.2021, 11.11.2021, 06.08.2022 and 14.05.2023. But such plea has been raised without any kind of supporting documents. Moreover, such submission has been made on the basis of the petitioner's personal knowledge, as per affidavit annexed to the writ petition.

5. From the above fact situation averred in the writ petition, it clearly transpires that the petitioner has approached this Court seeking to invoke the extra-ordinary and discretionary jurisdiction of this Court under Article 226 of the Constitution of India after elapse of more than 3½ years from the date of submission of the application on 20.02.2020. If there was alleged inaction on the part of the Executive Magistrate, Mangaldoi, the petitioner had adequate/efficacious remedy under the provisions of the Code of Criminal Procedure [CrPC], 1973 but the petitioner had chosen not to avail such remedy for a prolonged period of more than 3½ years.

6. The proceeding under Section 107, CrPC are for public peace and tranquility whereas those under Section 145, CrPC relates to disputes regarding possession between parties concerning any land or water or boundaries thereof. The petitioner is found to be silent as to the aspect what transpired in the subsequent period from 20.02.2020 till filing of the writ petition on 15.12.2023.

7. In view of such obtaining fact situation, this Court is not persuaded to reach a view that the petitioner has been able to make out a case for entertaining the writ petition under Article 226 of the Constitution of India. Accordingly, the writ petition is not entertained. No cost.

JUDGE

Comparing Assistant