

GAHC010253672023



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

Case No. : Cont.Cas(C)/674/2023

AKHIL BHARATIYA CHA MAZDOOR SANGHA (ASSAM) (CITU)
HAVING REGISTERED OFFICE AT AMAL BHAWAN, CHANDMARI COLONY,
PUB-NIZARAPAR, GHY-3 REPRESENTED BY SHRI CHUNILAL
BHATTACHARJEE, PRESIDENT CACHAR DISTRICT COMMITTEE, SWAHID
BHAWAN, MALOGRAM, SILCHAR-788001, DIST-CACHAR, ASSAM

VERSUS

ROHAN KUMAR JHA AND ANR
THE DEPUTY COMMISSIONER, CACHAR, SILCHAR, P.O. AND DIST-
CACHAR, ASSAM, PIN-788001

2:KHALEDA SULTANA AHMED
SETTLEMENT OFFICER SADAR CIRCLE OFFICER
SILCHAR
P.O. AND DIST-CACHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 18-12-2023

Heard Mr. A.R. Sikdar, learned counsel for the petitioner.

2. The instant application has been preferred under Section 12 of the Contempt of Courts Act, 1971 r/w Article 215 of the Constitution of India alleging non-compliance of the directions made in an interim order dated 22.02.2013 passed in a writ petition, W.P.[C] no. 856/2013 [M/s Hindustan Tea Company vs. The State of Assam and 6 others] and also in another interim order dated 06.04.2018 passed in another writ petition, W.P.[C] no. 1573/2018 [Akhil Bharatiya Cha Mazdoor Sangha [Assam][C.I.T.U.] vs. The State of Assam and 10 others].

3. The writ petition, W.P.[C] no. 856/2013 was preferred by one M/s Hindustan Tea company and not by the petitioner. This court in the order dated 20.03.2017, finding that the claim of the petitioner therein were based on several disputed questions of fact, had observed that such disputed questions of fact can only be verified in an investigation carried out at the ground level and it was only thereafter, the question of legitimacy of the claim of the petitioner therein could be examined. It was after such observance, the writ petition was disposed of, by the Order dated 20.03.2017, with a direction to the respondent no. 6 therein i.e. the Deputy Commissioner, Cachar to examine the claim of the petitioner therein along with all other interested parties pertaining to any right arising out of the land in question and thereafter, to pass appropriate order in the matter as might be necessary in the facts and circumstances of the case. It was further observed that while doing so, the respondent no. 6 i.e. the Deputy

Commissioner, Cachar should afford personal hearing to all the affected parties, if the same was deemed necessary. The exercise was directed to be carried out as expeditiously as possible, but within an outer limit of 6 [six] months therefrom. It was further observed that till such time the exercise would be completed, the operation of the interim Order dated 22.02.2013 passed earlier by the Court in that writ petition would continue. As per the earlier interim order dated 22.02.2013, the Court while issuing notice of motion, directed that status quo in respect of the land found mentioned in letters, dated 05.02.2011 & dated 23.12.2011, shall be maintained. Subsequent to the disposal of the writ petition, W.P.[C] no. 856/2013 on 20.03.2017, the petitioner herein preferred the other writ petition, W.P.[C] no. 1573/2018. The petitioner represented before the Court that exercise directed to be undertaken and completed by the Deputy Commissioner, Cachar, by the Order dated 22.03.2017, was not carried out. It was observed in the Order dated 06.04.2018 to the effect that status quo with regard to the land mentioned in the letters, dated 05.02.2011 & dated 23.12.2011, as referred to in the interim Order dated 22.02.2013 passed in the writ petition, W.P.[C] no. 856/2013 would continue until further orders and till the decision was taken by the Deputy Commissioner, Cachar in terms of the Order dated 20.03.2017 whereby the previous writ petition, W.P.[C] no. 856/2013 was disposed of.

4. It is trite that an interim order passed in a writ petition merges with the final order, which is passed in a writ petition. In such view of the matter, the interim order dated 22.02.2013 had already merged with the order dated 20.03.2017 whereby the previous writ petition, W.P.[C] no. 856/2013 was disposed of. The Court is of the considered view that the petitioner herein cannot maintain a contempt application under Section 12 of the Contempt of

Courts Act, 1971 in respect of a writ petition wherein it was not the writ petitioner. The writ petition, W.P.[C] no. 1573/2018 is stated to be pending. Section 20 of the Contempt of Courts Act, 1971 has provided for limitation for actions for contempt. As per Section 20 of the Contempt of Courts Act, 1971, no court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. As more than a period of 5 [five] years has elapsed since the interim Order dated 06.04.2018, this Court is of the considered view that the instant contempt application is not maintainable on the ground of limitation. As the writ petition, W.P.[C] no. 1573/2018 is stated to be pending as on date, the petitioners is at liberty to seek appropriate relief as permissible under the law.

JUDGE

Comparing Assistant