

GAHC010264602023



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

Case No. : WP(C)/6829/2023

RASHADHAR DAS
S/O- LATE BALIRAM DAS,
R/O- VILLAGE NORTH GUWAHATI,
RAJADUAR, MANIKARNESWAR,
P.S- NORTH GUWAHATI,
DIST- KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
MUNICIPAL ADMINISTRATION DEPARTMENT, ASSAM SECRETARIAT,
DISPUR, GUWAHATI-06.

2:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY (GMDA)
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.
GUWAHATI
DIST- KAMRUP (M)
ASSAM

3:THE CHIEF EXECUTIVE OFFICER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY (GMDA)
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005.

4:CHITRAKAR DEV SARMAH
S/O- UMESH DEV SARMAH
R/O- HOUSE NO- 123
HIRAN CHANDRA PATH
MANIKARNESWAR
NORTH GUWAHATI
KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. R PHUKAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 18-12-2023

Heard Mr. R. Phukan, learned counsel for the petitioner; Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent no. 1; and Ms. S. Chutia, learned counsel representing Mr. P. Nayak, learned Standing Counsel, GMDA for the respondent nos. 2 & 3.

2. The case of the petitioner, briefly stated, is that the respondent no. 4, a neighbour of the petitioner, has started construction of a RCC house in a plot of land, adjacent to the land/house of the petitioner. It is the grievance of the petitioner that the respondent no. 4 has been constructing the RCC house in such a way that the rain water from the roof of his house falls over the boundary wall and inside the compound of the petitioner. The toilets and septic tank of the respondent no. 4 are also constructed near to the boundary of the land of the petitioner and the water outlet of the said septic tanks passes over to the petitioner's land. As a result, the petitioner is facing an unhealthy situation. It is stated that the petitioner has already submitted a complaint before the respondent no. 3, on 19.09.2023, alleging unauthorized construction by the respondent no. 4 and seeking redressal of his grievance but till date the complaint has not been considered. Hence, the writ petition.

3. Ms. Chutia, learned counsel representing the respondent nos. 2 & 3 was asked, on 29.11.2023 and 06.12.2023, to obtain instructions as regards the status of the complaint filed by the petitioner. Ms. Chutia has submitted that the respondent GMDA authorities have found some deviation in the building permitted to be constructed by the respondent no. 4 and by an Order bearing no. GMDA/UC/82/2023/14 dated 29.11.2023, the respondent no. 4 has been asked to stop constructing and to show cause about the unauthorised construction. It is also

noticed that the respondent GMDA authorities have also issued an Order to the petitioner bearing no. GMDA/UC/83/2023/16 dated 01.12.2023 whereby the petitioner has been asked to stop construction and to show cause about the unauthorised construction done by him, that is, an Assam Type House in his plot of land without permission.

4. From the said 2 [two] Orders, dated 29.11.2023 and dated 01.12.2023, it is noticed that the respondent GMDA authorities have initiated proceedings against the respondent no. 4 under the provisions of Section 87 and Section 88 of the GMDA Act, 1985 by asking the respondent no. 4 to stop construction and to show cause as to why the unauthorised part of the building, constructed by him, shall not be demolished. As the respondent GMDA authorities have already initiated proceedings as regards the allegation made by the petitioner in this petition regarding the alleged unauthorised construction, this Court is of the considered view that the proceedings so initiated are required to be brought to its logical conclusion by the respondent GMDA authorities in terms of the provisions GMDA Act, 1985. As the proceedings have been initiated already, the respondent GMDA authorities shall also afford opportunities of hearing to all the stakeholders including the petitioner, in the said proceeding. In such view of the matter, instead of keeping this writ petition pending, the writ petition is disposed of by directing the respondent GMDA authorities to bring the proceedings already initiated against the respondent no. 4 by the Order dated 29.11.2023 to its logical conclusion as expeditiously as possible, preferably within a period 3 [three] months from today. As the proceedings have also been initiated against the petitioner, the same be also brought to its logical conclusion in the same manner.

5. This order disposes of the writ petition.

6. The instructions placed by Ms. Chutia be kept as part of the case record.

JUDGE

Comparing Assistant