

GAHC010276862023



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

Case No. : WP(C)/7276/2023

NAJIM UDDIN
S/O- ABUL HUSSAIN, VILLAGE- PANIGAON, KACHALUKHWA, P.O.
NAGAON, P.S. NAGAON, DISTRICT- NAGAON (ASSAM), PIN- 782001

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR, GHY-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND SETTLEMENT DEPTT.
DISPUR
GHY-06

3:THE COMMISSIONER AND SECRETARY
REVENUE AND DISASTER MANAGEMENT DEPTT.
ASSAM
DISPUR
GHY-6

4:THE DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN- 782001

5:THE SETTLEMENT OFFICER
NAGAON
ASSAM
PIN-

6:THE CIRCLE OFFICER
SADAR CIRCLE

DIST.- NAGAON
PIN- 782001
ASSA

Linked Case : WP(C)/7282/2023

NASIR AHMED AND 2 ORS.
S/O- LT. HAFIZUR RAHMAN

VILLAGE- PANIGAON
KACHALUKHWA

P.O.- NAGAON

P.S.- NAGAON

DISTRICT- NAGAON (ASSAM)

PIN- 781001.

2: ABDUL BATEN
S/O- ABDUL HAKEM

VILLAGE- PANIGAON
KACHALUKHWA

P.O.- NAGAON

P.S.- NAGAON

DISTRICT- NAGAON (ASSAM)

PIN- 781001.

3: AKTAR HUSSAIN
S/O- ABDUL MAJID

VILLAGE- PANIGAON
KACHALUKHWA

P.O.- NAGAON

P.S.- NAGAON

DISTRICT- NAGAON (ASSAM)

PIN- 781001.

VERSUS

THE STATE OF ASSAM AND 5 ORS.

REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR

GHY-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND SETTLEMENT DEPTT.

DISPUR

GHY-6.

3:THE COMMISSIONER AND SECRETARY
REVENUE AND DISASTER MANAGEMENT DEPTT. ASSAM

DISPUR

GHY-6.

4:THE DEPUTY COMMISSIONER
NAGAON

ASSAM

PIN-

5:THE SETTLEMENT OFFICER
NAGAON

ASSAM

PIN-

6:THE CIRCLE OFFICER
SADAR CIRCLE

DIST.- NAGAON

PIN-

ASSAM

For the Petitioner(s)

: Mr. A. Sarma, Advocate

For the Respondent(s)

: Ms. M. Barman, Jr. Government Advocate

: Mrs. P. R. Mahanta, SC, Revenue

Department

Date of Hearing

: 18.12.2023

Date of Judgment

: 18.12.2023

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

1. Both the writ petitions are taken up together for disposal taking into account the common issues involved in both the writ petitions.

2. In WP(C) No.7276/2023, the Petitioner herein claims to be an erosion affected person having lost his land due to soil erosion. The Petitioner along with his parents and family members are residing on a part of Government land measuring 2 Bigha covered by Dag No.701 of Village Kachalukhowa Kissam under Town Mouza, Sadar Circle, Nagaon by constructing their dwelling houses for the last 21 years. It is also stated in the writ petition that the Petitioner had also paid the Touzi Mouza which is in the nature of payment of penalty for unauthorized use of the Government land. Further to that, the Petitioner claims that in terms with the Land Policy of 1989 and Land Policy of 2019, the Petitioner is required to be rehabilitated. On 27.03.2023, the Petitioner submitted an application before the Revenue and Disaster Management Department for settlement of Government Khas land measuring 1 Katha 5 Lechas covered by Dag No.701. The said acknowledgment to the application filed by the Petitioner has been enclosed as Annexure-4 to the writ petition. It is the further case of the Petitioner in WP(C) No.7276/2023 that there is a move on the part of the District Administration to evict the Petitioner and as such the Petitioner has approached this Court seeking the direction that the land measuring 1 Katha 5 Lechas covered by Dag No.701 of village Kachalukhowa Kissam under Town Mouza, Sadar Circle, Nagaon should be settled in favour of the Petitioner and pending disposal of the said writ petition,

the Petitioner should not be evicted.

3. In WP(C) No.7282/2023, the three Petitioners herein also claims that they are in possession of land measuring 2 Bighas covered by Dag No.701, Kachalukhowa Kissam under Town Mouza, Sadar Circle, Nagaon by constructing their houses for the last 20-25 years. It has also been averred that the Petitioners have paid Touzi Mouza which is in the nature of penalty. It is however relevant to take note of that the receipts enclosed as Annexure-1 (colly) only shows payment of Touzi Mouza or Bedakhali Jarimona in the name of the Petitioner No.1 and not in the name of Petitioner Nos. 2 and 3. It is also the case of the Petitioners herein that they have submitted representation in terms with the Land Policy of 1989 before the Deputy Commissioner, Nagaon and the same is pending. It has also been mentioned that in the year 2005, the Petitioners along with one Md. Abdur Rafique Ansari who also used to reside in the said land filed an application before the Commissioner, Revenue Department praying for settlement of the land covered by Dag No.701. It is also mentioned that there are certain official correspondences in that regard to the applications so filed by the Petitioners. A report has been enclosed as Annexure-11 to the effect that the Government land covered by Dag No.701 situated at Kachalukhowa under Town Mouza, does not have any specific classification. Further to that, the petitioners' names along with others were duly mentioned in the report to have been permanently living in the plots of land measuring 1 Katha 15 Lechas, 1 Katha 10 Lechas and 1 Katha respectively for the last 10 years by constructing their respective houses. On the basis of the said report, the Circle Officer, Nagaon Sadar Revenue Circle, Nagaon have also issued a communication on 04.11.2010 to the Additional Deputy Commissioner (Revenue Branch) Nagaon as can be seen from the Annexure-12

of the writ petition. Thereupon, the In-charge, Deputy Commissioner Nagaon had also issued another communication dated 11.11.2020 to the Chief Commissioner, Revenue and Disaster Management Department of the Government of Assam regarding settlement of land in favour of the Petitioners along with another. Further to that, the records also reveals that on 04.08.2015, the Joint Secretary to the Government of Assam, Revenue and Disaster Management Department had issued a communication to the Deputy Commissioner, Nagaon District, Nagaon enclosing therewith a statement indicating the numbers and the date of the proposals received from the Deputy Commissioner, Nagaon regarding the settlement of land for residential purpose with eligible indigenous landless persons and requested to take necessary action on the proposals as per the decision taken by the Government and the guidelines issued in the matter. It is seen from the enclosure that although the names of the Petitioners do not feature in the list but the communication dated 11.11.2010 wherein the Petitioners' name along with one Md. Abdur Rafique Ansari was mentioned in the said statement. It is further seen that on 02.05.2023 also, there is a communication issued as regards the allotment.

4. In the backdrop of the above, proposals being pending, the Petitioners herein could come to learn that the District Administration is taking steps for evicting the Petitioners from their land in their possession and under such circumstances, WP(C) No.7282/2023 was filed.

5. I have heard the learned counsels for the Petitioners as well as the learned Junior Government Advocate appearing on behalf of the District Administration and the Revenue and Disaster Management Department.

6. From the materials on record, prima facie it reveals that the Petitioners

herein are residing in Government land bearing Dag No.701 located at Village Kachalukhowa Kissam under Town Mouza, Sadar Circle, Nagaon. It is also seen from the records placed before this Court that the Petitioners have duly applied for the settlement of the land. It is however on the basis of an apprehension on coming to learn that there is a move of the District Administration to evict them, the Petitioners have approached this Court. It is the opinion of this Court that if the lands in Dag No.701 of village Kachalukhowa Kissam under Town Mouza, Sadar Circle, Nagaon, is a land which could be settled in terms with the Land Policy of 2019, the Petitioners herein should not be evicted till their proposals seeking settlement are not disposed of by the Respondent Authorities.

7. Under such circumstances, this Court therefore disposes of both the writ petitions with a direction to the Respondent Authorities to consider the applications for settlement of the Petitioners. It is further directed that till the applications are not decided, the Respondent Authorities shall not take any steps for eviction of the Petitioners in both the writ petition.

8. The Petitioners are directed to submit a certified copy of the instant judgment along with all such documents evidencing their applications so filed for settlement of the land and the various correspondences if any, exchanged on the basis of which the Petitioner claims the entitlement over the land before the District Commissioner, Nagaon as well as the Commissioner and Secretary, Revenue and Disaster Management Department. Both the Respondents i.e. District Administration, Nagaon as well as the Revenue and Disaster Management Department shall duly consider the same in accordance with law as well as the prevailing Land Policy of 2019.

9. With above observations and directions, both the writ petition stands disposed of.

JUDGE

Comparing Assistant