

GAHC010292982019



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

Case No. : WP(C)/8814/2019

PARAG KANTI CHOWDHURY
S/O LATE DULAL KANI CHOWDHURY, R/O MALIGAON EAST
GOTANAGAR, GUWAHATI-11

VERSUS

NORTH EAST FRONTIER RAILWAY AND ANR.
MALIGAON, GUWAHATI-781011, REPRESENTED BY ITS GENERAL
MANAGER

2:ESTATE OFFICER
NORTH EAST FRONTIER RAILWAY
MALIGAON
GUWAHATI-78101

Advocate for the Petitioner : MR. S K GHOSH

Advocate for the Respondent : SC, NF RLY

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04.05.2023

Heard Ms. F. Ahmed, learned counsel for the petitioner whereas the respondents – Railways are represented by Shri B. Sarma, learned counsel.

2. The subject matter of this writ petition is against an order dated 19.10.2019

passed by the learned Additional District Judge No. 1, Kamrup (M) in Misc. Appeal No. 21/2017 whereby the appeals filed by the petitioners has been dismissed. The appeal was preferred against an order dated 21.03.2017 passed by the Estate Officer under the provisions of the Public Premises (Eviction and Unauthorized Occupation) Act, 1971.

3. Ms. Ahmed, learned counsel for the petitioner submits that the relevant factors including the fact that the petitioner was residing on the land in question for about last 65 years has been grossly overlooked.

4. On the other hand, while supporting the order passed by the Estate Officer as well as the learned Additional District Judge in the appeal, Shri B. Sarma, learned counsel for the Railways has submitted that there were cases filed on identical facts by similarly situated persons before this Court which have been dismissed. He places before this Court two orders dated 02.12.2019 passed in WP(C)/8875/2019 and 06.12.2019 passed in WP(C)/8937/2019. He submits that there were six cases in total and somehow only the present case has left out and all the other five cases have been dismissed. Shri Sarma, learned counsel also submits that the same set of counsel were also there in the other five writ petitions. He accordingly submits that, following the aforesaid decision, the present writ petition is also liable to be dismissed.

5. Ms. Ahmed, learned counsel for the petitioner fairly submits that it is a matter of fact that the five other similarly situated writ petitions have been dismissed by this Court.

6. In view of the aforesaid facts and circumstances and following the decisions rendered by this Court in similarly situated writ petitions, the present writ petition also stands dismissed.

7. At this stage, it is pointed out on behalf of the petitioner that in the other cases, six months' time was granted to the petitioners in those cases to vacate the land and similar direction may also be issued in the present case.

8. Shri Sarma, learned counsel for the Railways however submits that the petitioner are already in possession of the land in spite of the fact that similarly situated writ petitions were dismissed way back in the year 2019. He, therefore, submits there is no justification to ask for more time to vacate the premises.

9. Be that as it may and in the interest of justice, further period of 45 (forty five) days from today is granted to the petitioner to vacate the premises in question.

10. The petitioner is to ensure that within the 45 (forty five) days, the vacant and peaceful possession of land is handed over to the respondents.

11. The writ petition accordingly stands dismissed.

JUDGE

Comparing Assistant