

GAHC010002352017



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

Case No. : FAO/5/2018

DEBEN DAS
S/O- LATE BHARAT KALITA, R/O- H NO. 4, BYE LANE GIRI PATH,
GEETANAGAR, GHY- 21, DIST- KAMRUP, ASSAM

2: SONJOY MONI DAS
R/O- H NO. 4
BYE LANE GIRI PATH
GEETANAGAR
GHY- 21
DIST- KAMRUP
ASSAM

3: NABA KUMAR DAS
S/O- DEBEN DAS
R/O- H NO. 4
BYE LANE GIRI PATH
GEETANAGAR
GHY- 21
DIST- KAMRUP
ASSAM

4: JITU MONI DAS
S/O- DEBEN DAS
R/O- H NO. 4
BYE LANE GIRI PATH
GEETANAGAR
GHY- 21
DIST- KAMRUP
ASSAM

5: SONJOY MONI DAS
S/O- DEBEN DAS R/O- H NO. 4
BYE LANE GIRI PATH
GEETANAGAR

GHY- 21
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY COMMISSIONER AND SECRETARY, REVENUE DEPARTMENT,
GOVT OF ASSAM, DISPUR

2:THE DEPUTY COMMISSIONER
KAMRUP(M)
PANBAZAR
GHY- 1

3:THE ADDITIONAL DEPUTY COMMISSIONER
KAMRUP(M)
PANBAZAR
GHY- 01

4:THE CIRCLE OFFICER
CHANDRAPUR REVENUE CIRCLE
CHANDRAPUR
GUWAHAT

For the Appellant(s) : Mr. S. P. Roy, Advocate

For the Respondent(s) : Mrs. D. D. Barman, Addl. Sr. GA
: Mr. R. Borpujari, SC, Revenue

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 02.05.2024

1. The instant appeal under Order XLIII Rule 1(r) read with Section 104 of the Code of Civil Procedure, 1908 is directed against the order dated 15.09.2017 passed in Misc. (J) Case No.58/2017 whereby the application filed seeking temporary injunction restraining the defendants from forcefully taking over the possession of the suit land was rejected.

2. The case of the Appellants who are the Plaintiffs in the suit is that they had purchased the suit land vide registered Deeds of Sale and as such the said lands are patta lands of the Plaintiffs and the Respondent Authorities had no authority to take over the possession of the suit land in the manner which have been sought to be done. It is under such circumstances, taking into account the actions of the Respondents in clouding the rights of the Plaintiffs, the suit was filed seeking declaration of the right, title and interest of the Plaintiffs as well as for permanent injunction restraining the Respondents from disturbing the possession of the Plaintiffs over the suit land.

3. Along with the said suit which was registered and numbered as Title Suit No.30/2017, an application was filed seeking temporary injunction which was *pari materia* with the permanent injunction as prayed in the suit. The said application was registered and numbered as Misc. (J) Case No.58/2017. In the said suit, it has been brought to the attention of this Court that the written statement has been filed by the Defendants who are the Respondents herein taking the plea that the land is a ceiling surplus Government land and as such the Deeds of Sale if so executed, had no force of law. It was also stated that the proceedings under Settlement Rules of the Assam Land and Revenue Regulation, 1886 were duly taken up against the Plaintiffs and the Plaintiffs have challenged those proceedings before this Court which were negated by this Court. It was therefore the specific case of the Respondents that the suit was not maintainable and the Plaintiffs would not have any right, title and interest over the said suit land.

4. The learned Trial Court while taking up the injunction application, dismissed the said application on the ground that this Court vide order dated 12.08.2016 held that the occupied land measuring 46 Bighas 2 Kathas 2 Lechas of Shri

Deben Das and his 3 (three) sons are ceiling surplus land and their vendors had no legal authority to sale such land to the current occupiers. Likewise, 26 Bighas 3 Kathas 17 Lechas of land occupied by Shri Raj Kishore Ray is also ceiling surplus land. On the basis of the said observations made by the Court, the learned Trial Court came to an opinion that the Plaintiffs did not have any legitimate right over the occupied land and as such the question of granting any injunction did not arise. Being aggrieved, the instant appeal has been filed raising various grounds and objections as regards the legality and validity of the said order.

5. Along with the appeal, an Interlocutory Application has been filed being I.A.(Civil) No.169/2018 seeking temporary injunction which was prayed for before the learned Trial Court. The records reveals that this Court admitted the instant appeal on 09.03.2018. On the said date, in the injunction application being I.A.(Civil) No.169/2018, this Court issued notice and observed that the prayer for interim relief would be considered on the next date and the matter was listed on 13.06.2018. However, as on that date, as there was no objection filed, this Court as an interim measure directed that the status quo as on 13.06.2018 as regards the possession of the land shall be maintained until further orders.

6. While hearing the instant appeal, this Court had enquired with the learned counsels at the bar as to what is the stage of the suit. It has been duly informed that the suit is at the stage of cross-examination of the plaintiff witnesses and the next date is fixed on 13.06.2024. Taking into account that there was a status quo order passed by this Court almost 6 (six) years back and the same have been continuing till date and the suit is at the advance stage, this Court is of the opinion that the said order of the status quo be maintained till the

disposal of the suit.

7. Accordingly, the instant appeal stands disposed of with a direction that the parties herein shall maintain the status quo as regards title, possession as well as the nature and character of the suit land till the disposal of the suit.

8. Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the Revenue Department submitted that there has been considerable delay in disposal of the suit taking into account that almost 7 (seven) years have been passed by and the land being a Government land, the necessary infrastructural need cannot be accomplished on account of the delay in the disposal of the suit.

9. Taking into account that the suit has been pending for the last 7 (seven) years, this Court is of the opinion that an expeditious disposal of the suit is required for the ends of justice. Accordingly, this Court requests the learned Trial Court to dispose of the said suit as expeditiously as possible and preferably within 8 (eight) months from 13.06.2024. In that process, if need be, the learned Trial Court shall also take necessary measures of taking up the matter on day to day basis.

10. With above observations and directions, the instant appeal stands disposed of.

JUDGE

Comparing Assistant