

GAHC010005842023



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

Case No. : WP(C)/203/2023

ROHIZUDDIN AHMED AND ANR
S/O- HAJI JOSIMUDDUN AHMED,
A RESIDENT OF VILLAGE- DIGIRPAAM,
P.S.- BAGHBAR,
DISTRICT- BARPETA, ASSAM.

2: SAMIR UDDIN AHMED
S/O- HAJI JOSIMUDDUN AHMED

A RESIDENT OF VILLAGE- DIGIRPAAM

P.S.- BAGHBAR

DISTRICT- BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI- 6.

2:THE DEPUTY COMMISSIONER
KAMRUP(METRO) DISTRICT
KAMRUP
ASSAM.

3:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
DISPUR
BASISTHA GUWAHATI

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

29.05.2024

Heard Mr. A.R. Bhuyan, learned counsel for the petitioners. Also heard Ms. M. Barman, learned Government Advocate.

2. This writ petition is filed by the petitioners who claimed to have purchased a plot of land measuring 3K-5L in the year 1981 at Hatigaon Revenue Village under Beltola Mouza. A registered sale deed dated 29.05.1981 is also claimed to have been executed.

3. The learned counsel for the petitioners submits that their names appeared in the Jamabandi Copy. It is submitted that the petitioners although are the owners of the said land, they do not reside on the said land and they find that subsequent the land is being sought to be encroached by people residing near their plot of land. In this respect, an FIR was also lodged before the Hatigaon Police Station dated 25.05.2011. Considering the boundary dispute between the petitioners and the other people residing in the land, a representation was filed before the Circle Officer, Dispur Revenue Circle dated 14.09.2022. The learned counsel for the petitioners submits that this representation has remained pending and therefore having no alternative they have approached this Court.

4. Notice was issued on 18.01.2023, the respondents have not been able to complete their instructions and consequently no counter affidavit has been filed.

5. In terms of the earlier orders of the Court, the directions were issued to

enclose the copy of the sale deed. By filing an additional affidavit, the petitioners have enclosed the sale deed.

6. In terms of the sale deed, it reflects that the sale deed was executed in respect of plot of land measuring 3K-5L covered by Dag No. 370(old)/2220(New), Patta No. 96(Old). The boundary is also prescribed in the sale deed as under:

In the North side, it is the land of Ahmed Syed Ali, In the West side, it is the land of Siddik Hussain Choudhury, in the South, it is a 16 feet road and in the East side, it is the land of Ayub Ramen Kumar.

7. The learned Government Advocate submits that as per instructions the land in question there are co-pattadars in the land along with the writ petitioners. Therefore a proper enquiry and hearing is required to be undertaken by the Circle Officer before deciding on the claims made by the writ petitioners.

8. Taking into consideration the submissions made by the learned counsel for the parties, this Court is of the view that since the representation has been filed and the same is pending before the Circle Officer, Dispur, the writ petition can be disposed of with a specific direction to the Circle Officer, Dispur Revenue Circle to examine the claims of the petitioners in terms of the representation dated 14.09.2022 along with a subsequent representation dated 08.02.2023 and all relevant documents which may be necessary to determine the claims of the writ petitioners. If the Circle Officer considers that hearing of other co-pattadars, if any, are necessary then proper notices would be issued and the matter will be heard and the documents considered necessary be called for from the petitioners and other co-pattadars and thereafter a speaking order be passed disposing of the representation.

9. This entire exercise be completed within a period of 60 days from the date of receipt of a certified copy of this order. Any such order that is passed, copies

thereof shall be served on the writ petitioners as well as on the other co-pattadars.

10. Accordingly, the writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant