

GAHC010011822019



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

Case No. : WP(C)/363/2019

BIPUL KALITA
S/O- LT HARIN KALITA, R/O- FRIENDS FABRICATION, BETKUCHI, P.O.
KHAUKUCHI, P.S. GORCHUK, GHY, KAMRUP (M), ASSAM, PIN- 781040

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVENUE
DEPTT., DISPUR SECRETARIAT, DISPUR, GHY-6, ASSAM

2:DY. COMMISSIONER
KAMRUP (M)
OFFICE OF THE DY. COMMISSIONER
M.G.ROAD
PAN BAZAR
GHY-01
ASSAM

3:THE SETTLEMENT OFFICER
(LAND AND SETTLEMENT BRANCH)
OFFICE OF THE DY. COMMISSIONER
M.G.ROAD
PAN BAZAR
GHY- 1
ASSAM

4:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
NEAR BASISTHA P.S.
N.H. 37
GHY- 2

For the Petitioner(s) : Mr. S. Chamaria, Advocate
For the Respondent(s) : Mr. S. Baruah, Government Advocate
: Ms. P. R. Mahanta, SC, Revenue

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 16.09.2024

Heard Mr. S. Chamaria, the learned counsel appearing on behalf of the Petitioner and Mr. S. Baruah, the learned Government Advocate appearing on behalf of the District Administration, Kamrup (M). I have also heard Ms. P. R. Mahanta, the learned Standing counsel appearing on behalf of the Revenue Department.

2. The Petitioner herein is aggrieved by the issuance of notice under Rule 18(2) of the Settlement Rules dated 04.01.2019 whereby the Petitioner has been asked to vacate the land taking into account that the land wherein the Petitioner is in occupation is a Government land.

3. This Court has perused the affidavit so filed by the District Commissioner, Kamrup (Metro). From the materials on record, it transpires that the land in question which is being presently possessed by the Petitioner is a Government waste land. It is also seen that the Petitioner had submitted an application seeking settlement on 25.06.2015 and the said settlement application is still pending. Further to that, the records also shows that there is a specific order dated 12.05.2017 passed in WP(C) No.2788/2017 wherein there is a direction upon the authorities concerned to dispose of the said application for settlement dated

25.06.2015 within a period of 2 (two) months and till such disposal, no coercive action is to be taken insofar as the land measuring 1 Katha 10 Lechas covered by Dag No.484 situated at Betkuchi under Beltola, Mouza, District Kamrup (Metro).

4. This Court have duly heard the learned counsels appearing on behalf of the parties and given anxious consideration to the matter. The question as to whether the Petitioner has a bona fide claim of right involved in the instant proceedings can be well decided by the Circle Officer, Dispur Revenue Circle. It is also pertinent to take note of that as the land in question is a waste land and if the petitioner comes within the ambit of the persons eligible to be settled in terms of the Land Policy of 2019, the Petitioner in the opinion of this Court would have a bona fide claim of right involved. Under such circumstances, this Court is of the opinion that the ends of justice would be met if the Petitioner is given the liberty to submit a representation within 15 days from today before the Circle Officer, Dispur Revenue Circle in reference to the notice dated 04.01.2019 which is impugned in the proceedings. If such representation is submitted showing that the Petitioner had a bona fide claim of right involved, the Respondent Authorities cannot proceed to summarily evict the petitioner.

5. With above observations and directions, this Court therefore disposes of the instant petition thereby granting the liberty to the Petitioner as stated above. Further to that, taking into consideration that there is already an order dated 12.05.2017 passed in the WP(C) No.2788/2017, this Court observes that no coercive action be taken till the disposal of the said representation.

6. Before concluding, this Court finds it relevant to take note of the submission made by Mr. S. Baruah, the learned Government Advocate that on earlier occasions in the year 2023, steps were taken for serving a notice upon the Petitioner for passing the Speaking Order in terms with the order dated 12.05.2017 passed in WP(C) No.2788/2017 however, the Petitioner could not be located and as such the notice has been returned back.

7. Taking into account the above, this Court observes and directs that the Petitioner herein shall within 15 days from today submit the representation and a date would be fixed by the Circle Officer, Dispur Revenue Circle for fixing the matter for hearing and thereupon the proceedings be proceeded.

JUDGE

Comparing Assistant