

GAHC010013002017



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

Case No. : WP(C)/908/2017

SMT. USHA DAS
W/O. SRI PHANIL BISWAS, R/O. HABA GAON, KALI BENGALIPATTY,
DHAKUAKHANA, P.O. and P.S. DHAKUAKHANA, DIST. LAKHIMPUR,
ASSAM.

VERSUS

THE STATE OF ASSAM and 5 ORS.
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
LAND and REVENUE DEPTT., DISPUR, GUWAHATI- 6.

2:THE DY. COMMISSIONER
LAKHIMPUR
DIST. LAKHIMPUR
ASSAM.

3:THE ASSTT. DEPUTY COMMISSIONER REVENUE
LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM.

4:THE SUB-DIVISIONAL OFFICER
DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM.

5:THE CIRCLE OFFICER
DHAKUAKHANA REVENUE CIRCLE
DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM.

6:THE LAT MANDAL
DHAKUAKHANA REVENUE CIRCLE

DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM

Advocate for the Petitioner : MS.H M PHUKAN, MR. R M DEKA,MR.N UPADHAYA

Advocate for the Respondent : GA, ASSAM, SC, REVENUE DEPTT

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 20.09.2024

Heard Mr. R.M. Deka learned amicus curiae appearing on behalf of the petitioner. This court requested Mr. R.M. Deka to assist this court in the backdrop that the petitioner was not represented by the engaged counsel.

The petitioner herein claims to be a poor landless woman and a victim of flood/erosion. According to her she has been residing over a plot of land measuring 5 lechas of Annual Patta under Dag No.818 of Ekchana Patta No.36, village Dhokuakhana by constructing a temporary shed. Apprehending her eviction, she has approached this court.

The State respondent No.4 has filed an affidavit and admitted the possession of the petitioner. It is not denied that the petitioner is a person effected by flood erosion. At paragraph 11 of the affidavit in opposition a specific stand has been taken that the penalty (TB Revenue) was collected from the petitioner for occupying a government land. It is their further stand that no penalty has been collected since the year 2007 as per instructions received from the Government, and the land in question is a river side reserved land and therefore such land cannot be settled.

The engaged counsel for the petitioner did not represent the

petitioner on last two/three occasions and no reply affidavit has been filed. However, from the pleadings of the parties, it can be gathered that the petitioner is a victim of flood/erosion, she is residing over a plot of land which she claims to be patta land and the state claims it to be a riverside reserved land.

The fact is also admitted that till the year 2007 TB revenue has been collected from the petitioner.

Mr. Deka, learned counsel relying on a Notification dated 12.03.2015 issued by the State contends that the Governor of Assam has introduced a scheme called "Chief Minister's Special Scheme for Rehabilitation of Erosion Affected Families in Assam" in order to rehabilitate homeless and landless people living on embankments, roadside, educational institutions, religious organizations, char or forest land, Govt. Khas lands, VGRs or PGRs etc, certain procedures and criteria's has been prescribed in the aforesaid notification for settlement of such erosion affected parties. It is also submitted by the learned counsel for the respondent that there is also a subsequent policy which is notified in the year 2023 i.e., 18.11.2023.

From the pleadings of the parties as well as the affidavit filed by the concerned Revenue Circle Officer, it is clear that the petitioner is a erosion effected person and she is possessing a land purportedly a riverside land though she claims it to be a annual patta land.

In the aforesaid backdrop, this court is of the view that this matter should be relegated by the committee constituted under notification dated 18.11.2023 i.e., "Chief Minister's Special Scheme for Rehabilitation of Erosion Affected Families in Assam" to make a decision whether the land in question or any other land can be settled with the petitioner, being a flood/erosion affected person.

Accordingly, it is directed that the case of the petitioner be considered by the competent authorities in terms of the aforesaid notification or any scheme under which the petitioner may be entitled for settlement including the land policy of the State government.

As the petitioner is not represented by her engaged counsel, this court requests Ms. M Barman to download a copy of this order and forward the same to the Deputy Commissioner, Lakhimpur district. Registry is directed to forward a copy of this order to the Deputy Commissioner, Lakhimpur for doing the needful.

On receipt of such copy, the Deputy Commissioner, Lakhimpur shall do the needful as per law and in terms of the observations made in this order.

Till such determination is made, the petitioner shall not be evicted from the land that she has been possessing.

While parting with the record, this court records its appreciation of Mr. R.M. Deka who has rendered his able assistance to this court.

JUDGE

Comparing Assistant