

GAHC010017492017



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

Case No. : WP(C)/1822/2017

JATINDRA NATH DOLEY and ANR.
S/O- LATE CHENIRAM DOLEY, R/O- MOHGHULI CHAPORI, P.O-
DHAKUAKHANA, DIST- LAKHIMPUR, ASSAM

2: SRI RAJEN DOLEY
S/O- MANIK DOLEY
R/O- MOHGHULI CHAPORI
P.O- DHAKUAKHANA
DIST- LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM and 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPT. ,
SETTLEMENT BRANCH, DISPUR, GUWAHATI-6

2:THE DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

3:THE SUB DIVISIONAL CIVIL
DHAKUAKHANA SUB DIVISION
DIST- LAKHIMPUR
ASSA

Advocate for the petitioner(s): Mr. PK Gogoi

Advocate for the respondent(s): Mr. N Goswami

Government Advocate, Assam

Mr. A Bhattacharjee
Standing counsel,
Revenue Department, Govt. of Assam

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

30.07.2024

Heard Mr. PK Gogoi, the learned counsel appearing on behalf of the petitioners. Mr. N Goswami, the learned Junior Government Advocate, Assam appears on behalf of the State respondents and Mr. A Bhattacharjee, the learned standing counsel appears on behalf of the Revenue Department, Government of Assam.

2. The petitioners herein have filed the present writ petition being aggrieved by the inaction on that part of the respondent authorities in not making allotment/settlement of the land in favour of the petitioners pursuant to the recommendation so made by the Sub-Divisional Land Advisory Committee in its meeting held on 08.10.2010, whereby both the petitioners have been recommended to be entitled to settlement of 2 kathas each in dag No.14 (Pt) of village Mohghuli Chapori under Dhakuakhana Mouza, Revenue Circle Dhakuakhana in the district of North Lakhimpur.

3. This Court has duly taken note of the affidavit which has been filed by the respondent No.3 wherein it has been mentioned that the land covered by dag No.14 (Pt) of Dhakuakhana Revenue Circle is a village grazing reserve and the

petitioners have been enlisted as encroachers along with other encroachers. Referring to the Land Policy of 1989, more particularly, the Clause 6.1, it has been mentioned that the petitioners are not entitled for settlement in the VGR land. It is also mentioned that the Sub-Divisional Land Advisory Committee had not allotted the land in favour of the petitioners but only proposed for allotment by the Government which has not been approved in till now.

4. I have heard the learned counsels appearing on behalf of the parties and have given a due consideration to the respective submissions.

5. The law is well settled by the Supreme Court in the case of Jagpal Singh & Others Vs. the State of Punjab & Ors. reported in *(2011) 11 SCC 396*, wherein it is categorically observed that village gazing reserve cannot be granted settlement. This Court also takes note of that Rule 95 of the Settlement Rules framed under the Assam Land and Revenue Regulations, 1886 which stipulates that no person can encroach upon village gazing reserves. This Court also takes note of Rule 95 A which only permits any settlement post the de-reservation of the village gazing reserves and there is a particular procedure to be followed.

6. In the instant case, nothing could be shown to the effect that the village gazing reserves in respect to the land under dag No.14 (Pt) has been deserved or any steps in that regard has been taken.

7. This Court also takes note of clause 6.1 of the Land Policy, 2019 wherein also it is the policy of the Government not to further decrease by way of de-

reservation any VGR and PGR lands.

8. Under such circumstances, this Court cannot issue a writ as sought for in the instant proceedings merely on the basis that there was a recommendation made by the Sub Divisional Land Advisory Committee. Accordingly, this Court finds no merit in the writ petition, for which, the same stands dismissed.

JUDGE

Comparing Assistant