

GAHC010017972024



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

Case No. : WP(C)/586/2024

MD ACHADUZ ZAMAN
SON OF LATE ABDUL SUKKUR OF VILL- UJANDHI, P.O. KARNAMADHU,
P.S. KARIMGANJ, DIST.- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY REVENUE AND
DISASTER MANAGEMENT, GOVT. OF ASSAM, DISPUR, GUWAHATI-6

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ASSAM

3:THE CHIEF CONSERVATOR OF FOREST
SILCHAR
CACHAR DIVISION
DIST.- CACHAR
ASSAM
PIN NO.- 788001

4:THE CHAIRMAN
STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
ASSAM
BAMUNIMAIDAN
GUWAHATI

5:DISTRICT FOREST OFFICER
DIST.- KARIMGANJ
ASSAM
PIN- 788701

6:THE FOREST RANGE OFFICER
KARIMGANJ
DIST.- KARIMGANJ
ASSAM
PIN NO. 788001

7:THE DIRECTOR
DIRECTORATE OF GEOLOGY AND MINING
ASSAM BHU BIGYAN BHAWAN
DAKINGAON
KAHILIPARA
GUWAHATI-19
DIST.- KAMRUP (M)
ASSAM

8:ABDUL ADUD CHOUDHRY
SON OF LATE NAJIB ALI CHOUDHURY
RESIDENT OF VILL- BISKUT
P.O. AYLABARI
P.S. AND DIST.- KARIMGANJ
ASSAM
PIN NO.- 78871

Advocate for the Petitioner : MR. I A TALUKDAR

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

09.02.2024

1. Heard Mr. I.A. Talukdar, learned counsel for the petitioner, who submits that the petitioner had applied for earth cutting permission in respect of land measuring an area of 6 Kedar situated at Village-Biscuit, Mouza-Biscuit, covered by Dag No.654(new), Patta No.182 (new) under Sadar Revenue Circle, District-Karimganj. However, the respondent No.5 has not forwarded the petitioner's application to the respondent No. 4 and as such, no decision has been taken by the respondents with regard to the petitioner's application for earth cutting. He

accordingly submits that a direction should be issued to the State respondents to take a decision on the petitioner's application for cutting earth on his land.

2. The petitioner's counsel submits that the land on which he is asking for permission to cut the earth, has also been claimed by the respondent No.8 vide Title Suit No. 36/2022, which is pending before the Court of learned Munsiff No. 3, Karimganj. He submits that the petitioner has also submitted his written statement in the Title Suit stating that the description, boundary and area of the alleged suit land are false, incorrect and not identifiable in the locality. The petitioner's counsel further submits that the petitioner's land is covered by Dag No. 654(new) under Patta No. 182(new), though the land of the respondent No. 8 is covered by Dag No.581 under Patta No. 182. He submits that while earth cutting is being undertaken in Dag No. 581, the petitioner's application for earth cutting in respect of Dag No. 654 has not been decided till date.

3. Mr. D. Gogoi, learned Standing Counsel, Forest Department submits that as there is a dispute with regard to the property in which the petitioner has applied for earth cutting, it may not be proper for this Court to pass a direction, prior to the learned Trial Court taking a decision as to who is the owner of the said property.

4. On considering the fact that the application for earth cutting has been made on a plot of land, which is in dispute in Title Suit No.36/2022, this Court is not inclined to pass any order, inasmuch as, the title to the land has not been settled by the learned trial Court.

5. In view of the above facts, liberty is given to the petitioner to approach the learned trial Court, to clarify as to whether the portion of land on which he

has asked for earth cutting permission is in dispute with the respondent No.8. If it is held that there is no dispute with regard to the portion of land for which the petitioner has applied for earth cutting, the petitioner may approach the authorities or this Court again, if so advised.

6. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant