

GAHC010033052023



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

Case No. : WP(C)/950/2023

SUKRITA MOHAN PANDIT
S/O- LT. SUDHANSHU MOHAN PANDIT, R/O- VILL- GUTLONG, MOUZA-
BHAIRABPAD, DIST.- SONITPUR, ASSAM- 784001

VERSUS

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

2:THE DY. COMMISSIONER
SONITPUR
TEZPUR
ASSAM- 784001

3:THE CIRCLE OFFICER
TEZPUR REVENUE CIRCLE
SONITPUR
ASSAM- 784001

4:THE SUB-DIVISIONAL LAND ADVISORY COMMITTEE
TEZPUR
THROUGH THE DY. COMMISSIONER
SONITPUR
TEZPU

Advocate for the petitioner(s): Mr. A Ganguly

Advocate for the respondent(s): Ms. G Hazarika

For the Revenue Department,
Government of Assam
Mr. J Handique
Government Advocate, Assam

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

14.08.2024

Heard Mr. A Ganguly, the learned counsel appearing on behalf of the petitioner. Ms. G Hazarika, the learned counsel appears on behalf of the respondent No.1 and Mr. J Handique, the learned counsel appears on behalf of the respondent Nos.2, 3 and 4.

2. The case of the petitioner herein is that the petitioner's father Late Sudhanshu Mohan Pandit (since deceased) came into possession of the Government land measuring 1 bigha 3 kathas 1 lecha under Old Dag No.345 of village Gotlong in Bairabpad Mouza, under Tezpur Revenue Circle, Sonitpur, Tezpur around the year 1980. The father of the petitioner thereupon continued to remain in possession of the said land and paid the touzi bahira/bedokhol jorimona. The father of the petitioner constructed a kutcha house over the said land as he had no other land in his name. After the death of his father, the petitioner also continued to pay the touzi bahira/bedokhol jorimona and was issued various receipts. The petitioner also applied for allotment of the said land before the respondent authorities.

3. The Land Advisory Committee, Tezpur headed by the Deputy Commissioner, Sonitpur by a Resolution No.31 in its meeting dated 10.02.2011

recommended that the petitioner should be allotted the said land. Pursuant thereto, the Deputy Commissioner, Sonitpur issued an order dated 13.01.2012 that the land measuring 1 bigha 3 kathas 1 lecha under Old Dag No.345 of village Gotlong in Bairabpad Mouza, under Tezpur Revenue Circle, Sonitpur is allotted to the petitioner and the Circle Officer was directed to handover the possession of the said land and submit a report after correction of records.

4. It is further seen that the Deputy Commissioner Sonitpur thereupon also issued a communication to the Additional Chief Secretary to the Government of Assam, Revenue and Disaster Management Department, intimating the said Revenue Department that necessary approval be given for settlement of the aforesaid land measuring 1 bigha 3 kathas 1 lecha under Old Dag No.345 in favour of the petitioner. Subsequent thereto on 20.04.2017, a communication was issued by the Joint Secretary to the Government of Assam, Revenue and Disaster Management (S) Department to the Deputy Commissioner Sonitpur, Tezpur seeking a clarification whether the proposal is for allotment or settlement of the land. Thereafter as nothing further progressed as regards the settlement of the land to be made in favour of the petitioner, the petitioner, therefore, has approached this Court by filing the instant writ petition.

5. It is seen that the Revenue Department of the Government of Assam has filed an affidavit-in-opposition, wherein it has been mentioned that the Sub-Divisional Land Advisory Committee had found that the land should be given for allotment and as such, sought for a clarification vide the communication dated 20.04.2017. It is further seen that the Revenue Authority in the affidavit dated 19.12.2023 puts the blame upon the Deputy Commissioner for not giving the proper clarification pursuant to the communication dated 20.04.2017 and it is under such circumstances, the question of settlement of the land in favour of

the petitioner remains in a status-quo mode.

6. I have heard the learned counsel appearing on behalf of the petitioner as well as the counsels appearing on behalf of the respondents.

7. This Court has put a specific query upon the learned counsel appearing on behalf of the Revenue Department as well as the District Commissioner, Sonitpur as to whether the provisions of the Assam Land and Revenue Regulations, 1886 as well as the Settlement Rules provide for granting of any allotment or it stipulates that the land is to be settled. The learned counsels appearing on behalf of both the respondent authorities submitted that as per the Assam Land and Revenue Regulations, 1886 as well as the Rules framed therein under, the Deputy Commissioner has been empowered to settle the land. Be that as it may, it has been duly submitted drawing reference to the Assam Land Policy of 2019, more particularly, to Clause 1 and 3 that the land would be initially allotted and thereupon after three years of continuous physical possession, the land may be settled with the allottees, provided the land is found to have been used for the purpose for which it was allotted.

8. It has also been submitted during the course of the hearing that the Revenue Department had specifically empowered the Deputy Commissioner to allot lands after the recommendation being given by the State Level Land Advisory Committee.

9. From the materials on record, it transpires that the petitioner herein was granted an allotment as far back as on 13.01.2012 of a plot of land measuring 1 bigha 3 kathas 1 lecha under Old Dag No.345 of village Gotlong in Bairabpad Mouza, under Tezpur Revenue Circle, Sonitpur. This Court further duly takes note of that though the Assam Land and Revenue Regulations, 1886 as well as

the Settlement Rules framed therein under are silent as regards the allotment of land, but taking into account the Assam Land Policy of 2019, wherein it has been categorically mentioned that if a person is granted an allotment and he puts to use the said land for the purpose of which the land has been allotted, he has a right to be granted the settlement after three years after the allotment is made. Under such circumstances, this Court directs the respondent authorities to finalize the settlement of the land of the petitioner after verification only to the extent as to whether the petitioner had put to use the land for the purpose for which the land was allotted. The same be carried out within a period of three months from the date a certified copy of this order is served upon the Principal Secretary to the Government of Assam, Revenue and Disaster Management along with a copy to the District Commissioner, Sonitpur.

10. With the above, this writ petition stands disposed of.

JUDGE

Comparing Assistant