

GAHC010035852023



2024:GAU-AS:7571

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

Case No. : WP(C)/1193/2023

BHUPATI BARUAH AND 3 ORS.

S/O- LT. KHARGESWAR BARUAH @ KHARGEMOHAN BARUAH @
KHARGAMOHAN BARUAH, VILL- NO-1 CHAPAGURI, P.O. CHAPAGURI, P.S.
DHALIGAON, DIST.- CHIRANG, BTAD, ASSAM, PIN- 783385

2: NRIPEN BARUAH

S/O- LT. KHARGESWAR BARUAH @ KHARGEMOHAN BARUAH @
KHARGAMOHAN BARUAH
VILL- NO-1 CHAPAGURI
P.O. CHAPAGURI
P.S. DHALIGAON
DIST.- CHIRANG
BTAD
ASSAM
PIN- 783385

3: BASANTI BARUAH

W/O- LT. MONURAM BARUAH
VILL- NO-1 CHAPAGURI
P.O. CHAPAGURI
P.S. DHALIGAON
DIST.- CHIRANG
BTAD
ASSAM
PIN- 783385

4: RAJKIRAN BARUAH

S/O- LT. MONURAM BARUAH @ MANU BARUAH
VILL- NO-1 CHAPAGURI
P.O. CHAPAGURI
P.S. DHALIGAON
DIST.- CHIRANG
BTAD
ASSAM

PIN- 78338

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, LAND
REVENUE DEPTT., DISPUR, GHY-6

2:THE COMMISSIONER
LOWER ASSAM DIVISION
PANBAZAR
GUWAHATI-01

3:THE BODOLAND TERRITORIAL COUNCIL
REP. BY THE SECRETARY
LAND REVENUE DEPTT.
BTC
BODOFANAGAR
KOKRAJHAR
DIST.- KOKRAJHAR
BTAD
ASSAM
PIN- 783370

4:THE DEPUTY COMMISSIONER
CHIRANG
KAJALGAON
P.O. KAJALGAON
DIST.- CHIRANG
BTAD
ASSAM
PIN- 783385

5:THE CIRCLE OFFICER
SIDLI REVENUE CIRCLE
SIDLI
P.O. AND P.S. SIDLI
DIST.- CHIRANG
BTAD
ASSAM
PIN- 78337

Advocate for the Petitioner(s) : Ms. C. Das

Advocate for the Respondent(s) : Mr. A. Bhattacharjee

Mr. H. Sarma

Mr. R.K. Mushahary (Standing Counsel, BTC)

Date of Hearing and Judgment : 05.08.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGEMENT AND ORDER (ORAL)

Heard Ms. C. Das, the learned counsel appearing on behalf of the petitioners. Mr. A. Bhattacharjee, the learned counsel appears on behalf of the respondent No. 1; Mr. H. Sarma, the learned Standing Counsel, BTC, appears for the respondent No. 2 and Mr. R. K. Mushahary, the learned counsel appears on behalf of the respondent Nos. 3 & 5.

2. The petitioners have filed the instant writ petition being aggrieved by the inaction on the part of the respondent No. 5 to take necessary action for demarcation of the boundary of the petitioners plot of land covered by Dag No. 73 & 74 of Periodic Patta No. 3 of Village No.1 Chapaguri, Sidli Revenue Circle.

3. It is the case of the petitioners that the petitioners are pattadars in respect to Dag No. 73 & 74 of Periodic Patta No. 3 of Village No.1 Chapaguri, Sidli Revenue Circle in the district of Chirang. To that effect, the Jamabandi in respect to the said land has also been brought on record in the form of Annexure-1 to the writ petition. It is the case of the petitioners that the petitioners sought demarcation of their land by filing an application before the respondent No.5. In pursuance thereto, a Demarcation Case bearing Demarcation Case No. 12/2022-23 has been registered. However, the said Demarcation Case having not been disposed of, the petitioners have approached

this Court by filing the instant writ petition.

4. Pursuant to the filing of the instant writ petition, an affidavit-in-opposition has been filed by the respondent Nos. 3 & 5 through the Joint Secretary, Bodoland Territorial Council, Assam. A perusal of the said affidavit shows that it is admitted that the petitioners name found in the office Chitha copy in Dag No. 73 & 74 of Periodic Patta No. 3 of Village No.1 Chapaguri, Sidli Revenue Circle. It is also mentioned that on 18.11.2022, the Lot Mandal and other officials Staff were present for demarcation but demarcation could not be performed as the possession of the petitioners were not found in the land in question. It is under such circumstances, the respondents Nos. 3 & 5 have taken a stand that the demarcation proceedings could not be completed.

5. This Court however takes note of an Office Memorandum dated 21.12.2020 issued by the Revenue & Disaster Management (Reforms) Department of the Government of Assam, wherefrom it is seen as to why a demarcation proceedings are carried out. The said Office Memorandum stipulates that after carrying out the demarcation, a demarcation certificate is issued to establish the real extent/interest of the land and to establish the actual boundary of a particular Dag as per the cadastral map of the revenue village/ town.

6. Under such circumstances, this Court finds no reason as to why the respondent authorities, more particularly, the respondent No. 5 has not carried out their demarcation on the ground that the petitioners are not in possession of the land in question.

7. It is the opinion of this Court, that a demarcation proceedings is only for the purpose of establishing the real extent/interest of the land and to establish the actual boundary of a particular Dag as per the cadastral map of the revenue village/town. Under such circumstances, this Court therefore disposes of the instant writ petition thereby directing the respondent No.5 to carry out the demarcation in respect to Demarcation Case No. 12/2022-23 and in doing so shall only find out the real extent/interest of the land as well as the actual boundaries of Dag No. 73 & 74 of periodic Patta No. 3 of Village No.1 Chapaguri, Sidli Revenue Circle as per the cadastral map. It is however observed that while carrying out the said demarcation proceedings the possession of person(s) who is/are in occupation should be disturbed. It is

further directed that after carrying out the demarcation, the petitioners herein be furnished with the demarcation certificate.

8. With the above observation and direction the instant writ petition stands disposed of.

JUDGE

Comparing Assistant