

GAHC010040162024



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

Case No. : WP(C)/1034/2024

MUSSTT JALEMON NESSA @ JALEMON NECHA
D/O LT. JALALUDDIN R/O VILL. KHOPATI PART IV P.O. HAJIRHAT P.S
SUKCHAR DIST. SOUTH SALMARA MANKACHAR ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT JANATA BHAWAN
DISPUR PIN781006

2:THE PRINCIPAL SECRETARY
TO THE GOVT OF ASSAM REVENUE AND DISASTER MANAGEMENT
DEPTT JANATA BHAWAN DISPUR PIN781006

3:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR HATISINGIMARI DIST. SOUTH SALMAR
MANKACHAR ASSAM

4:THE ADDL DEPUTY COMMISSIONER (LAND REVENUE BRANCH)
SOUTH SALMARA MANKACHAR HATISINGIMARI DIST. SOUTH SALMAR
MANKACHAR ASSAM

5:THE CIRCLE OFFICER
SOUTH SALMARA CIRCLE HATSINGIMARI ASSAM

6:THE SUB REGISTRAR
SOUTH SALMARA CIRCLE HATSINGIMARI ASSAM

7:RAFIQUL ISLAM
S/O LT. JALAUDDIN R/O VILL. KHOPATI PART IV P.O. HAJIRHAT P.S.
SUKCHAR DIST. SOUTH SALMARA ASSAM PIN 783128

8:IBRAHIM ALI @ IBRAHIM MONDAL

S/O LT. JALALUDDIN R/O VILL. KHOPOTI PART IV P.O. HAJIRHAT P.S.
SUKHAR DIST. SOUTH SALMARA ASSAM PIN 78312

Advocate for the Petitioner : MR. K MOHAMMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 28.02.2024

Heard Mr. S. Khound, learned counsel for the petitioner, who submits that the petitioner is the owner of land measuring 2 Bigha 7 Lecha covered by Dag No. 428, under K.P. Patta No. 700, situated at village- Khopati Part-IV, Circle South Salmara, P.S. Sukhsor, in the district of South-Salmara, Mankachar.

2. The petitioner's case is that the petitioner had entered into an agreement with the respondent Nos. 7 & 8 for selling 1 Bigha of land out of his total land area measuring 2 Bigha 7 Lechas. However, in the sale deed dated 26.06.2023 executed between the petitioner and the respondent Nos. 7 & 8, it has been shown that the petitioner had sold 2 Bigha 7 Lecha of land to the respondent Nos. 7 & 8.

3. The petitioner's counsel submits that the respondent Nos. 7 & 8 are now taking steps to mutate the land measuring 2 Bigha 7 Lechas of land in their name.

4. As the petitioner later on realized that a fraud had been committed on him by the respondent Nos. 7 & 8, he filed two complaints dated 19.09.2023 and 03.02.2024 before the Deputy Commissioner, South Salmara at Mankachar, with a prayer that mutation of the land, as reflected in the sale deed dated

26.06.2023, which had been executed by the petitioner, should not be done.

5. Counsel for the petitioner further submits that the petitioner has not filed any civil suit with regard to the deception done by the respondent Nos. 7 & 8 to the petitioner till date. He accordingly prays that this Court should direct the respondent authorities not to mutate the land in favour of the respondent Nos. 7 & 8, in terms of the sale deed executed between the parties.

6. Mr. M. Chetia, learned counsel for the respondent Nos. 3, 4, 5 & 6 and Ms. N. Bordoloi, learned counsel for the respondent Nos. 1 & 2 submit that unless the sale deed is put to challenge by the petitioner before the Civil Court and the same is held to be invalid or void, the prayer of the petitioner cannot be entertained. They submit that as there are disputed questions of fact, the petitioner would have to approach the Civil Court.

7. I have heard the learned counsels for the parties.

8. As can be seen from the pleadings and the submissions made by the parties, the petitioner's case is that he had agreed to sell only 1 Bigha of land. However, the sale deed dated 26.06.2023 executed by the petitioner and the respondent Nos. 7 & 8 has shown that there had been a sale of land measuring 2 Bigha 7 Lecha covered by Dag No. 428, under K.P. Patta No. 700, situated at village- Khopati Part-IV, Circle South Salmara, P.S. Sukhsor, in the district of South-Salmara, Mankachar, which is bounded by North-Jabbar Moulana and others, South Road, East-Tahej Ali, West- Sarbej Ali.

9. The petitioner, not having denied the fact that he had executed the sale deed dated 26.06.2023 along with the respondent Nos. 7 & 8, the contention of the petitioner that the sale deed has been made by fraud and is thus invalid/void would have to be decided by a Civil Court, as the same requires

proof by way of evidence, with regard to questions of facts. The prayer of the petitioner not to mutate the so called land provided in the schedule to the sale deed dated 26.06.2023 can only be entertained, when a decision is taken that the sale deed dated 26.06.2023 has been made fraudulently and that the same is declared void/invalid. It is also noticed that the petitioner has not made a challenge to the registered sale deed No. 1602 dated 26.06.2023 in this writ petition.

10. In view of the reasons stated above, this Court does not find any reason to allow the present writ petition and the same is accordingly dismissed.

11. The petitioner is however given the liberty to approach the Civil Court with his grievance.

JUDGE

Comparing Assistant