

GAHC010060182023



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

Case No. : WP(C)/1591/2023

SHANKARDEV VIDYA NIKETAN
REPRESENTED BY THE SECRETARY OF SHANKARDEV VIDYA NIKETAN
PARICHALANA SAMITY, SRI KAMAL SAIKIA, S/O- LAKHIRAM SAIKIA,
R/O- HOWRAGHAT TOWN, WARD NO. 2, HOWRAGHAT, KARBI ANGLONG,
PIN- 782481, ASSAM

VERSUS

THE PRINCIPAL SECRETARY, KARBI ANGLONG AUTONOMOUS COUNCIL
AND 2 ORS
(K.A.A.C), DIPHU, ASSAM, PIN- 782460.

2:THE JOINT SECRETARY
I/C DEPARTMENT OF REVENUE
KARBI ANGLONG AUTONOMOUS COUNCIL (K.A.A.C)
DIPHU
ASSAM
PIN- 782460.

3:THE ARO/ASO
PHULONI CIRCLE OFFICE
PHULONI
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
PIN- 782481

Advocate for the Petitioner(s) : Mr. S.S.S. Rahman

Advocate for the respondent(s): Mr. J Chutia,SC, KAAC

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 16.09.2024

Heard Mr. S.S.S Rahman, the learned counsel appearing on behalf of the petitioner and Mr. J. Chutia, the learned Standing Counsel appearing on behalf of the KAAC.

2. The instant writ petition has been filed by the petitioner being aggrieved by the inaction on the part of the respondent authorities in not carrying out the demarcation of the land of the petitioner inspite of request being made.

3. It is seen from the record that the affidavit has been filed by the Joint Secretary, Department of Revenue, Karbi Anglong Autonomous Council. In the said affidavit, it has been mentioned that the land measuring 4 kathas, 11 Lechas covered by Dag No. 458 of Patta No. 154 of Hawraghat Town is recorded in the name of the petitioner.

4. It is further stated that pursuant to the application being filed, the land revenue staff of Phuloni Revenue Circle went on 05.04.2023 for demarcation of the land after issuance of notice to the various Pattadars.

5. During the said field survey proceedings, it was found that the total land measuring 3 Kathas, 10 lechas was found in Dag No.458 out of the total land measuring 4 Kathas, 11 lechas. There was a shortfall of 1 Katha, 1 Lecha. It was also found that one Shri Bhoben Saikia was possessing the land measuring 1 Katha 9 Lechas land of Dag No. 458 though the land was recorded in the name of the Petitioner.

6. Mr. J. Chutia, the learned Standing Counsel appearing on behalf of the KAAC submitted that land covered by the Dag No. 458 recorded in the name of petitioner could not be demarcated on 05.04.2023 due to the obstruction caused by the neighbours to the land revenue staff to put the boundary pillars.

7. The learned counsel further submitted that the question of carrying on the demarcation not be a problem however the question of delivery of possession would come within the ambit of the Civil Court. This Court has also taken note of the Office Memorandum dated 21.12.2024 issued by the Government of Assam, Revenue and Disaster Management Department wherein it has been mentioned that demarcation certificate would only for the purpose of ascertaining the rights of the land and showing the respective boundaries.

8. This Court is aware that when there is a dispute as regards possession of the land. Wherein demarcation is sought for, the Revenue Authorities cannot in the name of demarcation dispossess a person who is in possession of the land. However the Revenue Authorities can show the extent of the land and record the observations and issue a Demarcation Certificate to the person who seeks Demarcation. However in doing so, no person in possession can be dispossessed.

9. Accordingly, this Court disposes of the instant writ petition directing the Authorities of the Karbi Anglong Autonomous Council to carry out the Demarcation and provide the Petitioner with a Demarcation Certificate. Taking into consideration, the affidavit of the Respondent Authorities, it is made clear that while carrying out the demarcation, the possession of Mr. Bhoben Saikia should not be disturbed. The said exercise be completed within two months from the date a certified copy of this order is served upon the Respondent No. 3.

10. The Petitioner herein, if so advised would be at liberty to institute a suit, if the Petitioner seeks to recover the possession of the land under the possession of Mr. Bhoben Saikia, if he is found to be in possession of the Petitioner's land at the time of carrying out the demarcation.

11. With the above observations, the writ petition stands disposed of.

JUDGE

Comparing Assistant