

GAHC010075162024



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

Case No. : WP(C)/3405/2024

BAKULA HACHIN @ BAKULA HASIN
W/O- FAIZUL HOQUE, VILL- MAGURMARI, P.O. KANDHULIMARI, P.S.
DHING, DIST- NAGAON, ASSAM, PIN- 782123

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY, TO THE GOVT
OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI- 781007

3:SUPERINTENDENT OF POLICE
NAGAON
P.O. NAGAON
ASSAM

4:THE OFFICER-IN-CHARGE
DHING POLICE STATION P.O. DHING
DIST.- NAGAON
ASSAM

5:SAMIR UDDIN
S/O- LATE KALIM UDDIN
VILL- MAGURMARI
P.O. KANDHULIMARI
P.S. DHING
DIST.- NAGAON
ASSAM

PIN- 78212

Advocate for the Petitioner(s) : Mr. R. Sharma (Senior Advocate)

Advocate for the respondent(s): Mr. N. Goswami

Mr. M Hossain

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 02.08.2024

Heard Mr. R. Sharma, the learned Senior Counsel assisted by Ms. P. Phukan, the learned counsel appearing on behalf of the petitioner. Mr. N. Goswami, the learned counsel appears on behalf of the respondent Nos. 1, 2, 3 & 4 and Mr. M. Hossain, the learned counsel appears on behalf of the respondent No. 5.

2. The instant writ petition has been filed by the petitioner being aggrieved by the action on the part of the respondent No. 4 in disturbing the peaceful enjoyment of the petitioner over his fishery set up in a plot of land measuring 3 Bighas 3 Kathas 4 Lechas covered by Dag No. 110 of Patta No. 102 of Magurmari Kissam under Dhing Mouza in the District of Nagaon, Assam. It is the case of the petitioner that the respondent No. 4 is acting at the behest of the respondent No. 5.

3. I have heard Mr. R. Sharma, the learned Senior Counsel who submits that the respondent No. 4 has no business to disturb the possession of the petitioner that too at the behest of the respondent No.5.

4. On the other hand, Mr. M. Hossain, the learned counsel appearing on behalf of the respondent No. 5 submitted that the petitioner has no semblance of right over the land wherein the fishery has been set up. The instant writ petition is nothing but motivated writ petition and the jurisdiction under Article 226 of the Constitution has been invoked by abusing the process of the Court.

5. In view of the allegations made in the instant writ petition which pertains to an interference being made by an Officer-In-Charge Dhing Police Station, this Court specifically made a query upon with Mr. N. Goswami, the learned counsel appearing on behalf of the Official respondents as to why the respondent No. 4 is disturbing the possession of the petitioner. The learned Government Advocate submitted that the dispute between the petitioner and the respondent No. 5 being a private dispute, the question of the respondent No. 4 interfering with the dispute between the petitioner and the respondent No. 5 does not arise.

6. Taking into account the said submission made by Mr. N. Goswami, the learned

counsel appearing on behalf of the respondent authorities and also in view of the categorical submissions made by the counsel for the petitioner as well as the respondent No.5, it appears that the dispute between the petitioner and respondent No.5 is a private civil dispute as to who has the right over the land in question. Under such circumstances, this Court is of the opinion that such dispute between petitioner and respondent No. 5 are required to be settled before the Competent Court of civil jurisdiction. The respondent No. 4 cannot interfere with such a dispute unless and until an offence is made under the extant laws.

7. Accordingly this Court disposes of the instant writ petition thereby directing the respondent No. 4 not to interfere with the civil dispute between the petitioner and the respondent No. 5. It is however open to the petitioner and the respondent No. 5 to settle their dispute in accordance with law. This Court however observes that the above directions shall not preclude the respondent No. 4 to deal with any offence committed under the extant laws.

8. The observations made in the instant judgment shall not prejudice the petitioner or the respondent No. 5 in any proceedings initiated under law.

9. With the above observations and directions, the writ petition stand disposed.

JUDGE

Comparing Assistant