

GAHC010083872024



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

Case No. : WP(C)/2243/2024

DIMPU SAIKIA
S/O- LATE NIPEN SAIKIA, R/O- WARD NO. 2, P.. KHELMATI, DIST.
LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY (LAND AND
REVENUE DEPARTMENT), DISPUR, GUWAHATI-06.

2:DIRECTOR OF MUNICIPAL CORPORATION (ADMINISTRATION)

GHY-06.

3:DISTRICT COMMISSIONER
LAKHIMPUR
ASSAM
PIN- 787001.

4:PRESIDENT/CHAIRMAN NORTH LAKHIMPUR
MUNICIPALITY BOARD.

5:SUB- DISTRICT COMMISSIONER/ EXECUTIVE MAGISTRATE
LAKHIMPUR DISTRICT

6:CIRCLE OFFICER
UNDER DISTRICT COMMISSIONER LAKHIMPUR

Advocate for the Petitioner : MR MINTU SAIKIA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 29.04.2024

Heard Mr. R.P. Sarmah, learned senior counsel, assisted by Ms. R. Dutta, learned counsel for the petitioner. Also heard Mrs. P.R. Mahanta, learned standing counsel for the Revenue Department, respondent no.1; and Ms. M. Barman, learned Govt. Advocate for respondent nos.2, 3, 5 and 6.

2. The President, North Lakhimpur Municipal Board has issued a notice to one Naren Saikia (projected to be deceased), to vacate and remove the shop from the place mentioned in the said notice within a period of 3 (three) days, failing which, action would be taken under Assam Municipal Act, 1956. The said order is assailed in this writ petition filed under Article 226 of the Constitution of India.

3. In this writ petition, it is projected that on 13.09.1988, one Nripen Saikia had purchased possessory right over 1.75 lecha land covered by Touzi Patta no. 41 of Dag No. 625 of North Lakhimpur Ward No.1. It is also projected that the father of the petitioner was occupying that land and after his death, the petitioner is in occupation of the said land and is running a shop therefrom.

4. Be it mentioned that although 1.75 lecha land is approximately 262 square feet, it is projected that property tax application copy (Annexure-F) contains information that the land area is 432.0 square feet and floor area is 400.00 square feet.

5. It is also projected that when alive, the father of the petitioner had applied before the District Magistrate, Lakhimpur not to evict the applicant and it is also projected that on 14.03.2023, the petitioner had applied for granting patta of the land in his name.
6. Under the present scheme in force for allotment of land, the Govt. of Assam has notified Mission Basundhara and application for allotment of land is required to be made through the portal of the said scheme.
7. Therefore, the petitioner is at liberty to make an appropriate application in the manner prescribed for allotment of land or for grant of patta in respect of land, which he is currently occupying, which is through Mission Basundhara of Govt. of Assam.
8. The learned senior counsel for the petitioner has also submitted that the land does not belong to the Municipal authority, but the municipal authority has issued the notice impugned in this writ petition.
9. It is also submitted that in this writ petition, if the impugned notice is not interfered with, there is every likelihood of the house being demolished and the petitioner being evicted from the said land.
10. Be that as it may, insofar as the eviction notice no. NLMB/MTC 2024-2025/03 dated 08.04.2024, issued by the President, North Lakhimpur Municipal Board is concerned, the Court is inclined to grant 10 (ten) days time from today to the petitioner to respond to the said notice and the President, North Lakhimpur Municipal Board shall give an opportunity of hearing to the petitioner, and thereafter, pass appropriate orders. Accordingly, the petitioner shall produce a certified copy of this order before the said authority.

11. With the aforesaid observation and liberty, this writ petition stands closed at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant