

GAHC010088012022



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

Case No. : WP(C)/3032/2022

BISWAJIT CHOUDHURY
S/O LATE BIRAJ MOHAN CHOUDHURY, R/O MALIGAON, GOSALA, P.S.-
JALUKBARI, DIST-KAMRUP(M), ASSAM

VERSUS

THE UNION OF INDIA AND 2 ORS.
REPRESENTED BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,
GUWAHATI-11, DIST- KAMRUP(M), ASSAM

2:GENERAL MANAGER
N.F RAILWAY
MALIGAON
GUWAHATI-11
DIST-KAMRUP(M)
ASSAM

3:THE ESTATE OFFICER
N.F. RAILWAY
MALIGAON
GUWAHATI-11
P.S.-JALUKBARI
DIST-KAMRUP(M)
ASSA

For the Petitioner(s) : Mr. S. Biswas, Advocate

For the Respondent(s) : Mr. S. K. Medhi, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 04.11.2024

Heard Mr. S. Biswas, the learned counsel appearing on behalf of the Petitioner and Mr. S. K. Medhi, the learned Standing counsel appearing on behalf of the Respondent Nos. 1, 2 and 3.

2. The instant writ petition has been filed challenging the order dated 25.04.2022 passed by the learned Additional District Judge No.1, Kamrup (M) in Misc. Appeal No.19/2015 whereby the appeal filed under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'the Act of 1971') was dismissed.

3. From a perusal of the materials on record, it appears that the Petitioner claims that since the year 1992, he has been running his business in the premises without any hindrance and objection from any of the authorities. The area of the premises admeasures 370 sq. ft. On 05.01.2015, the Respondent No.3 had issued a show cause notice upon the Petitioner under section 4(2) of the Act of 1971 with an allegation that the Petitioner had been in unauthorized occupation of a premises belonging to the railways since the year 1992.

4. It is the allegation made in the writ petition that the Petitioner wanted to submit the written statement however, the Respondent No.3 did not permit to do so and only permitted the Petitioner to make submissions orally. Thereupon, the order was passed on 10.02.2015 under Section 5 of the Act of 1971 directing the Petitioner to vacate the premises under occupation within 15 days from the date of the receipt of

the said order.

5. Being aggrieved, the Petitioner preferred an appeal under Section 9 of the Act of 1971 before the Court of the learned District Judge, Kamrup (M) which was registered as Misc. Appeal No.19/2015. The learned Additional District Judge No.1, Kamrup (M) vide the impugned order dated 25.04.2022 dismissed the appeal. It is under such circumstances, the present writ petition has been filed.

6. This Court has duly heard Mr. S. Biswas, the learned counsel appearing on behalf of the Petitioner as well as Mr. S. K. Medhi, the learned counsel appearing on behalf of the Respondents and has given anxious consideration to their respective submissions.

7. The Court has also taken note of the order passed by the learned Additional District Judge No.1, Kamrup (M) in Misc. Appeal No.19/2015 and there appears to be no perversity or infirmity in the said order. Apart from that, the Petitioner herein has failed to show any materials that the land in question is not a Railway land or the Petitioner has any right over the land in question.

8. Considering the above, this Court finds no reason to interfere with the order dated 25.04.2022 passed in Misc. Appeal No.19/2015. Accordingly, the instant writ petition stands dismissed.

JUDGE

Comparing Assistant