

GAHC010089802006



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

Case No. : WP(C)/5101/2006

MD. ISLAM NAWAJ UDDIN AHMED,
S/O. LT. ALHAJ BASHIR UDDIN AHMED, R/O. NAKARI, WARD NO. 2, P.O. and
P.S. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, DEPTT. OF PLANNING AND
DEVELOPMENT, DISPUR, GHY-6

2:2. THE DY. COMMISSIONER

NORTH LAKHIMPUR
DIST. LAKHIMPUR.

3:3. THE NORTH LAKHIMPUR DEVELOPMENT AUTHORITY

LAKHIMPUR
REP. BY THE CHAIRMAN

For the petitioner (s) : Mr. M.U. Mahmud, Advocate

For the respondent (s) : Mr. J. Handique, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

09.02.2024

The instant writ petition has been filed by the petitioner challenging the show cause notices dated 05.11.2004; 07.12.2004 and 29.07.2006 whereby the North Lakhimpur Development Authority sought to demolish the Assam Type premises of the petitioner.

2. It is the case of the petitioner that the father of the petitioner one Bashir Uddin Ahmed was the owner of a plot of land measuring 2 bighas 2 kathas 3 lechas covered by Dag No.563 of Patta No.19 of Mouza-Nakari, North Lakhimpur Sahar Part-2. Further to that, the father of the petitioner was also the owner of another plot of land measuring 1 katha 11 lechas in Dag No.564 covered by Patta No.18 of Mouza-Nakari, North Lakhimpur Sahar Part-2. Upon the said land, an application was filed on 01.03.2004 to the Chairman of North Lakhimpur Development Authority for construction of an RCC house with tin roof consisting of four rooms measuring 9' X 9'; 9' X 9' and 12' X 11'. The said permission was granted on 08.03.2004 by the Chairman, North Lakhimpur Development Authority. Pursuant thereto, during the lifetime of the father of the petitioner on 05.11.2004, a notice was issued to the father of the petitioner alleging construction of Assam Type commercial shop without requisite permission. Subsequent thereto, on 07.12.2004, another notice was issued to the father of the petitioner. The father of the petitioner thereupon submitted a reply on 14.01.2005 stating inter-alia that for construction of commercial

shop, due permission was taken. Thereupon, the father of the petitioner expired on 17.09.2006. On 29.07.2006, the Chairman, North Lakhimpur Development Authority had issued another notice in the name of the father of the petitioner alleging unauthorized construction of Assam Type commercial shop. To the said notice, a reply was submitted by one of the sons of the father of the petitioner, namely, Taufiq Farhas Ahmed stating inter-alia that the building in question was constructed vide the permission conveyed under letter No.LLBA/BP/10/2002/113 dated 08.03.2004. It was also mentioned that the father of the petitioner had expired on 19.07.2006 after prolong illness and was buried on 21.07.2006. Thereupon, in view of the threat given by the respondent No.3 to demolish the premises of the petitioner, the instant writ petition was filed.

3. This Court has heard the learned counsels for the parties. From the materials on record it transpires that the permission was granted to the father of the petitioner on 08.03.2004 pursuant to an application filed on 01.03.2004 for construction of an Assam Type RCC building consisting of four rooms of the dimension as mentioned herein above. The said aspect was duly pointed out by submitting reply by the father of the petitioner during his lifetime as well as by one of the brothers of the petitioner on 14.08.2006.

4. This Court has also taken note of that the respondent authorities have not filed any affidavit-in-opposition and as such, the stand of the North Lakhimpur Development Authority could not be known. However, it is submitted by Mr. J. Handique that the permission so granted is in respect of some other land wherein no permission was sought. Be that as it may, the question as to whether the petitioner was granted the

permission on 08.03.2004 and as per the permission, the petitioner had duly constructed the RCC Assam Type house in the land where the permission was obtained is a question of fact which requires to be adjudicated by the North Lakhimpur Development Authority.

5. Under such circumstances, this Court therefore disposes of the instant writ petition directing the respondent authorities and more particularly the North Lakhimpur Development Authority not to disturb the premises of the petitioner without issuing notice to the petitioner and giving the petitioner a reasonable opportunity of hearing and thereupon passing a speaking order.

6. Accordingly, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant