

GAHC010113302022



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

Case No. : WP(C)/3886/2022

SUSMITA DAS (RAY)
W/O- INDRAJIT RAY, R/O- LINK ROAD, LANE NO. 13, HOUSE NO. 15, P.O.
1ST LINK ROAD, SILCHAR, P.S. SILCHAR, DIST. CACHAR, ASSAM, PIN-
788006.

VERSUS

THE STATE OF ASSAM AND 7 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY
REVENUE (LAND AND RECORDS DEPARTMENT), DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF LAND RECORDS
RUPNAGAR
GUWAHATI-07.

3:THE DEPUTY COMMISSIONER
CACHAR
ASSAM

4:THE ADDITIONAL DEPUTY COMMISSIONER
CACHAR
ASSAM

5:THE EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD
CACHAR.

6:THE ENFORCEMENT INSPECTOR (E.I.)
SILCHAR MUNICIPAL BOARD.

7:THE MUNICIPAL INSPECTOR (M.I.)
SILCHAR MUNICIPAL BOARD.

8:SMTI. SWEETY GOSH KANGSA BANIK

W/O- SRI PRADIP KANGSA BANIK
LANE NO. 13
1ST LINK ROAD
P.O. 1ST LINK ROAD
SILCHAR
P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN- 788006

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE KARDAK ETE

O R D E R

01.05.2024.

Heard Mr. A.K. Hannan, learned counsel appearing on behalf of Mr. M.J. Quadir, learned counsel for the petitioner. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue Department appearing for the respondent Nos.1 & 2, Mr. S. Baruah, learned Government Advocate, Assam appearing for the respondent Nos.3 & 4 and Mr. S. Dutta, learned Senior Counsel assisted by Ms. S. Mochahari, learned counsel for the respondent Nos.5, 6 & 7. None appears for the respondent No.8.

2. By filing this petition, the petitioner has prayed for a direction to the respondent authorities, particularly the respondent Nos.5, 6 & 7 i.e. the Silchar Municipal Board and its officials to carry out the order dated 13.04.2021, passed by the respondent No.5 to demolish the unauthorized and illegal structure of

building of respondent No.8, located at Dag No.934, 1, 2nd R.S. Patta No.376, 1, Mouza – Ambikapur, Pt-X/ Kanakpur Pt-I. Ward No.16, Lane No.13, 1st Link Road, Silchar.

3. The case of the petitioner is that she has been residing along with her husband in House No.15, Lane-13, Link Road, Silchar, Assam. The respondent No.8 who is residing adjacent to the petitioner's house has encroached the petitioner's portion of land holding, without maintaining proper setback and against the violation of the permission order by the Municipal Authority and has constructed a building unauthorisedly, located at Dag No.934, 1, 2nd R.S. Patta No.376, 1, Mouza – Ambikapur, Pt-X/ Kanakpur Pt-I. Ward No.16, Lane No.13, 1st Link Road, Silchar.

4. The petitioner filed a complaint before the Silchar Municipal Board vide Case No.481/2020, against such illegal construction. Accordingly, the respondent No.5, vide order dated 02.01.2021, directed the respondent No.8 to rectify the construction of his building as per condition of building permission and to construct boundary wall within fifteen days. As the respondent No.8 defied the order, another order dated 22.02.2021 was passed directing the respondent No.8 to remove the excess portion of the construction and finally on 10.03.2021, a letter was issued for sealing of the building of the respondent No.8 and prohibited any construction within the sealed premises. Despite such notices and letters by the concerned authority, the respondent No.8 has continued his construction unauthorizedly, against which the learned Executive Magistrate, vide order dated 13.04.2021 has informed the respondent No.8 that the competent authority would undertake demolition of unauthorized structure of building of the respondent No.8, on 17.04.2021 and to vacate the premises.

5. The respondent No.8 had filed the Municipal Appeal being MA No.03/2021, which was dismissed by the Appellate Authority vide order dated 08.12.2021 and upheld the order dated 13.04.2021, issued by the respondent No.5.

6. It is the simple prayer of the petitioner that despite such orders, the respondent authorities, particularly, the Silchar Municipal Board are not initiating any action against the respondent No.8 and therefore, the petitioner prays for a direction to take action against the respondent No.8, as per the orders (supra).

7. Mr. S. Dutta, learned Senior Counsel for the respondent Nos.5, 6 & 7, while referring to the order passed by the respondents submits that the consequential action has been initiated in accordance with the law. Mr. Dutta further submits that only because of this Court's order dated 20.06.2022, whereby this Court had observed that the Silchar Municipal Board shall ensure that the respondent No.8 does not carry out any further construction in the building and due to pendency of the Writ Petition, further action could not be initiated.

8. Due consideration has been given.

9. Considering the nature of grievance raised which is for initiation of action as per the above orders as well as applicable Acts and Rules and that the respondent No.8 has admittedly constructed his building unauthorisedly and the submissions of learned Senior Counsel for the Silchar Municipal Board, I am of the considered view that no useful purpose will be served by keeping the matter pending, as no issue is left to be determined in the present proceeding.

10. Accordingly, the Writ Petition is disposed of with a direction to the Silchar Municipal Board to take appropriate action as per the provisions of applicable Acts and Rules, against the respondent No.8, as the respondent No.8 had unauthorisedly constructed his building despite several notices and orders of the

competent authority.

11. It is clarified that since the order of this Court dated 20.06.2022 is only to the effect that the Silchar Municipal Board shall ensure that the respondent No.8 shall not carry out further construction, same shall not be any impediment, more so the Writ petition is being disposed of, with the above direction.

12. The Writ petition stands disposed of.

JUDGE

Comparing Assistant