

GAHC010114442016



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

Case No. : WP(C)/3924/2016

SRI DHARMENDRA CHETIA 12 ORS
S/O LT. LAKHIKANTA CHETIA R/O MARIANI NATUNMATI P.O. and P.S.
MARIANI DIST. JORHAT, ASSAM.

2: SRI ABIDUL HUSSAIN
S/O MD.NAJMAL HUSSAIN R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

3: SRI SUJIT PAUL
S/O MNGAL CH. PAUL R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

4: SRI NEPAL ROY
S/O LT. SHARADA ROY R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

5: SRI HAREN DAS
S/O LT. SUDHIR DAS R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

6: SMTI. SABITA DEY
W/O LT. CHITTARANJAN DEY R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

7: SRI PINTU GHOSH
S/O LT. ADHIR GHOSH R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

8: SRI SATYAM AICH
S/O SRI PROMOD AICH R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

9: SRI GANESH DEY
S/O LT. DEBENDRA KR. DEY R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

10: SRI SWAPAN DEY
S/O LT. JATINDRA DEY R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

11: SRI BISHNU CHAKRABORTY
S/O LT. NARAYAN CHAKRABORTY R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

12: SRI MINTU KR. DAS
S/O LT. RAMESH CH. DAS R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM.

13: SMTI. GAURI CHAKRABORTY
W/O LT. NIKHIL CHAKRABORTY R/O WARD NO. 3
PUKHURIPAR P.O. and P.S. MARIANI DIST. JORHAT
ASSAM

VERSUS

THE NORTH EAST FRONTIER RAILWAY and 6 ORS
REP. BY ITS GENERAL MANAGER, N.F. RAILWAY, MALIGAON, GUWAHATI,
ASSAM.

2: THE DIVISIONAL RAILWAY MANAGER C
TINSUKIA
NF RAILWAY.

3: THE SENIOR STATION MANAGER

TINSUKIA GAZ
NF RAILWAY

4: THE SENIOR ELECTRICAL ENGINEER

GUWAHATI

NF RAILWAY.

5:THE CHIEF COMMERCIAL INSPECTOR

TINSUKIA NF RAILWAY
TINSUKIA
ASSAM.

6:THE DIVISIONAL RAILWAY MANAGER WORKS
TINSUKIA
NF RAILWAY
TINSUKIA
ASSAM.

7:THE ESTATE OFFICER

N.F. RAILWAY
TINSUKIA
ASSAM

Advocate for the Petitioner : MR. PARAG J SAIKIA,

Advocate for the Respondent : MR. S C BISWAS, SC, RAILWAY,MR. S C BISWAS,MR. P S BISWAS

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

JUDGMENT

Date : 12.08.2024

Heard Mr. P.J. Saikia, learned counsel appearing for the petitioners. Also heard Mr. S.C. Biswas, learned Standing counsel, NF Railway appearing for all the respondents.

2. The challenge in the present proceeding is to the notices, all dated 07.06.2016, issued by the respondent No.7 herein to the petitioners directing them to vacate the land under their possession in terms of the provision of Section 5(1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (in short, “Act of 1971”).

3. As reflected from the materials brought on record, the petitioners herein being construed to be occupying land belonging to the Railways, were issued with notices, all dated 17.08.2015 under the provisions of Section 4(2) of the Act of 1971. The petitioners were required in terms of the said notices to appear before the State Officer, NF Railway, Tinsukia, on 06.10.2015 to show-cause as to why they would not be evicted.
4. The petitioners in the present proceeding have submitted that after issuance of the said notice, the petitioners were called to appear before the respondents in the 2nd week of June, 2016 and they were asked to enter into an agreement with the Railways in so far as the land in possession under them is concerned.
5. The petitioners contend that they had signed on some blank papers, which were contended by the respondents to be used as lease agreement. The petitioners in view of the fact that certain other occupants of land in the area had also entered into a lease agreement with regard to the land occupied by them with the respondent Railways, they appended their signature on the blank papers as directed by the respondent authorities. It is contended that thereafter the respondent authorities have issued a notice dated 07.06.2016 under Section 5(1) of the Act of 1971, requiring them to vacate the Railway land, so occupied by them within fifteen days.
6. The petitioners in the present proceeding have contended that they were in possession of the respective land, now contended to be Railway land since last many decades and have been also paying revenue in respect of the land to the Moriani Town Committee.
7. The petitioners contend that the respondent authorities on account of the procedure so adopted by them in the matter, deprived them an opportunity of placing their case in the matter before the Estate Officer.
8. Accordingly, being aggrieved by the said notices dated 07.06.2016, which is contended to have been received by the petitioners on 22.06.2016, the present proceeding have been so instituted.
9. Learned counsel for the petitioners has reiterated the facts as noticed hereinabove, and has

contended that the State Officer, NF Railway, Tinsukia, having not conducted the proceeding involved in the matter, in the manner required, deprivation having caused to the petitioners from placing their case in a proper manner, the notices so issued requires interference from this Court.

10. Per-contra, Mr. S.C. Biswas, learned Standing counsel appearing for the Railways has contended that on the petitioners herein found to be possessing the Railway land unauthorizedly, a show cause notice dated 17.08.2015 came to be issued to the petitioners. In the said show-cause notice, the petitioners were required to submit their show-cause reply by 06.10.2015. It is further contended that the petitioners had appeared before the Estate Officer, NF, Railway, Tinsukia, on 06.10.2015 and a personal hearing was afforded to them and their statement in writing in the matter was also received. The petitioners having failed to bring on record any materials to substantiate their claim over the land in question, the Estate Officer, NF Railway, Tinsukia, proceeded, on considering the show-cause reply, as submitted in the matter and drawing conclusion that the petitioners were unauthorized occupants, to issue the orders dated 07.06.2016, requiring the petitioners to vacate the plot of land.

11. I have heard the learned counsel for the parties and also perused the materials available on record.

12. While it is not disputed that the petitioners were issued with notices dated 17.08.2015 under the provision of Section 4 of the Act of 1971, what is being disputed by the petitioners is that they were not afforded with an opportunity to place their stand in the matter before the Estate Officer, NF Railway, Tinsukia.

13. The petitioners submit that the land in question, being under their occupation since decades, the land cannot be construed to be a Railway land. The petitioners have also contended in the writ petition that a move was made by the respondent Railway authorities to enter into a lease agreement with them with regard to the land under their possession, however, the same was also not taken to its logical conclusion.

14. In view of the above position, this Court, without proceeding to further examine the rival

contention as raised by the learned counsel for the parties to the proceeding; the claim made by the petitioners herein of being in possession of the land since decades and also of being allotted holding number by the jurisdictional town committee, the said aspect requiring examination of the facts involved, the Court accordingly proceeds to interfere with the notices dated 07.06.2016. The interference made with the notices dated 07.06.2016, would now be revive the notices dated 17.08.2015. The petitioners would now respond to the said notice dated 17.08.2015 issued to the petitioners herein under Section 4(2) of the Act of 1971 and submit individual replies thereto along with documents in support of their claim that the land under their respective possession is not Railway land, but government land. On receipt of such reply from the petitioners, the Estate Officer, NF Railway, Tinsukia would at the outset decide as to whether the land in question are government land or railway land.

15. In the event it is concluded that the said land under the possession of the petitioners are Railway land, the jurisdiction would be vested upon the Estate Officer of the Railway to invoke the provision of the Act of 1971 and take further steps as would be mandated in the matter.

16. In view of the above conclusion, the present writ petition is disposed of directing the petitioners herein to submit their respective replies along with documents, (in any) within 28.08.2024 to the Estate Officer, NF Railway, Tinsukia, against the show-cause notices dated 17.08.2015. The Estate Officer, NF Railway, Tinsukia on receipt of such replies from each of the petitioners herein within 28.08.2024 shall proceed to consider the said reply and take further steps in the matter in accordance with the provision of the said Act of 1971 in terms of the directions passed hereinabove.

17. It is made clear that if the petitioners submit their replies within 28.08.2024, till the disposal of the show-cause proceeding by the Estate Officer, NF Railway, Tinsukia, the petitioners shall not be evicted from the land so possessed by them as on date. It is further provided that in the event the petitioners and/or one of them fail to submit the show-cause reply in the matter within 28.08.2024, the Estate Officer, NF Railway, Tinsukia shall be at liberty to proceed in the matter in accordance with the provision of the Act of 1971 and take the matter to its logical conclusion.

18. With the above observation and directions, the writ petition stands disposed of.
Interim order passed earlier shall stand vacated.

JUDGE

Comparing Assistant